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1896

THE
Statutes at Large
OF
PENNSYLVANIA
1682 to 1801
FROM

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19 1887 BY

JAMES T MITCHELL AND HENRY FLANDERS
COMMISSIONERS

Vol I Regd Phila

VOLUME II

1700 to 1712

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PREFATORY NOTE.

This volume, though issued first, is the second in the series, and is, therefore, so numbered. The plan of the publication, as directed by the Legislature, includes not only the text of the laws passed since October, 1700, but also such illustrative matter, legal and historical, as the Commission find appropriate. To meet this requirement and to have in chronological order the whole body of statute laws from the foundation of the colony, it is deemed necessary to reprint the charters and laws enacted prior to the period mentioned, together with the action of the Crown upon those laws; the unpublished commissions and secret instructions to the several deputy governors, which explain many of the difficulties they labored under in assenting to the enactments of the assembly; and the various essential documents on which our colonial legislation was fundamentally based. This material, much of which was only to be procured by diligent search among the papers of the Historical Society of Pennsylvania, the Public Record Office in London, and elsewhere, will properly form the introductory volume, and will, therefore, be called number one. Its publication, however, is deferred with the view of obtaining some additional matter, and for the purpose of inserting a general survey of the work, which latter can only be prepared after all the subsequent volumes are in type. The present volume contains the earliest legislation still in force. The enrolments of the laws are defective in many instances, age having caused the originals to crumble and decay. The defects have been made good from the "Act Books," and are indicated by the use of brackets. Occasional clerical lapses and omissions, also, have been supplied by the Commission, and are indicated in a similar manner. The notes and index to this volume have been prepared, under the supervision of the Commission, by Charles R. Hildeburn, with the assistance of Edwin Jaquett Sellers and Isaac Elwell, Esquires.



ERRATA—Vol. II.

Page.	Line.	
3,	4th,	Section I, for "freeman," read "freemen."
14,	5th and 6th,	Section I, for "premeditatedly," read "premeditately."
18,	11th,	Section I, for "disbraced," read "disgraced."
17,	2d,	Chapter XVIII, for "countries," read "counties."
18,	4th,	Section I, for "counties," read "counties."
21,	10th,	Section I, for "explification," read "exemplification."
22,	23d,	Section I, for "servce," read "service."
24,	9th,	Section I, for "be," read "the."
24,	2d,	Chapter XXVIII, for "freeman," read "freemen."
26,	4th,	Section II, for "deceased of," read "deceased or."
27,	1st,	Section V, for "an," read "and."
28,	35th,	Section II, for "forthwith," read "forthwith."
32,	1st,	Section I, for "exten," read "extend."
38,	6th,	Section VIII, for "ususage," read "usage."
40,	8d,	Section I, for "they," read "thy."
40,	37th,	Section I, for "counsel," read "counsel."
49,	10th,	Section II, for "bequethed," read "bequeathed."
50,	2d,	Section II, for "premeditatedly," read "premeditately."
99,	7th,	Section I, for "goal," read "gaol."
157,	12th,	Section VIII, for "prochaine amys," read "prochein amy."
187,	5th,	Section III, for "loose," read "lose."
240,	2d,	Note, for "porprietary," read "proprietary."
308,	3d and 17th,	Section V, for "goal," read "gaol."
314,	4th,	Section IX, for "goal," read "gaol."
357,	8th,	Section I, for "tipling," read "tippling."
371,	18th,	Section I, for "goal," read "gaol."
390,	85th,	Section II, for "sizeable," read "sizable."
396,	3d,	Section IV, for "authorised," read "authorized."
402,	14th,	Section IV, for "acknowledgements," read "acknowledgments."
406,	2d,	Section VI, for "exhorbitant," read "exorbitant."
454,	15th,	For "liqours," read "liquors."
467,	13th,	No. 29, for "to loose," read "for as to lose."
469,	26th,	For "1705," read "170 , N. 41."
471,	8th,	No. 88, for "colour," read "color."
503,	18th,	For "goal," read "gaol."
506,	8th,	For "Ann," read "Anne."
549,	1st,	For "713-14," read "1713-14."
550,	1st,	For "name," read "the name."
559,	8th,	For "converstaion," read "conservation."
559,	22d and 25th,	For "goal," read "gaol."
561,	8th and 26th,	For "goal," read "gaol."
561,	29th,	For "Ann," read "Anne."
564,	26th,	Second column, for "Majecties," read "Majesties."
567,	23d and 27th,	Second column, for "collectable," read "collectible."
569,	48d,	Second column, for "admissible," read "admissible."
582,	12th,	First column, for "138, 236-38," read "138, 337-38."
589,	27th,	First column, for "goal," read "gaol."
593,	32d,	First column, for "insfluent," read "insufficient."
594,	28th,	Second column, for "252," read "352."
597,	14th,	Second column, for "collectable," read "collectible."
608,	9th and 18th,	First column, for "collectable," read "collectible."



THE STATUTES AT LARGE OF PENNSYLVANIA.

At a General Assembly begun and holden at Newcastle, the fourteenth day of October, and continued by adjournment until the twenty-seventh day of November, A. D. 1700, the following acts were passed:

CHAPTER I.

THE LAW CONCERNING LIBERTY OF CONSCIENCE.

Almighty God, being the only Lord of Conscience, Father of Lights and Spirits and the author as well as Object of all divine knowledge, faith and worship, who only can enlighten the minds and persuade and convince the understandings of people; in due reverence to His sovereignty over the souls of mankind:

[Section I.] Be it enacted by William Penn, Proprietary and Governor of the Province of Pennsylvania and the Territories thereunto belonging, by and with the advice and consent of the freeman thereof in General Assembly met, and by the authority of the same, That no person, now or at any time hereafter, living in this province or territories, who shall confess and acknowledge one Almighty God to be the Creator, Upholder and Ruler of the world, and that professeth him or herself obliged in conscience to live peaceably and quietly under the civil government, shall in any case be molested or prejudiced for his or

NOTE.—All of this act before the last two words of Section I, "punished accordingly," is missing in the rolls. This portion has been supplied from Act Book A, Vol. I.

her conscientious persuasion or practice; nor shall he or she, at any time, be compelled to frequent or maintain any religious worship, place or minister whatsoever, contrary to his or her mind, but shall freely and fully enjoy his or her Christian liberty in that respect, without any interruption or reflection. And if any person shall abuse or deride any other for his or her different persuasion and practice in matter of religion, such person shall be looked upon as a disturber of the peace and be punished accordingly.

But to the end that looseness, irreligion and atheism may not creep in under pretense of conscience, in this province and territories thereof:

[Section II.] Be it further enacted by the authority aforesaid, That according to the example of the primitive Christians, and for the ease of the creation, every First day of the week, called the Lord's Day, people shall abstain from their usual and common toil and labor, that whether masters, parents, children or servants, they may the better dispose themselves to read the scriptures of truth at home, or frequent such meetings of religious worship abroad, as may best suit their respective persuasions, under the penalty of twenty shillings for every such offense, for the use of the poor of the county where such offense shall be committed.

Passed, November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Acts of Assembly passed October 28, 1701, Chapter 105, and January 12, 1705-6, Chapter 115.

CHAPTER II.

AN ACT AGAINST RIOTS, RIOTERS AND RIOTOUS SPORTS, PLAYS AND GAMES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging, in General Assembly met, and by the authority of the same, That if any persons, to the number of three or upwards, meet together with clubs,

staves or any other hurtful weapons, to the terror of any the peaceable people or inhabitants of this province or territories, and shall commit or design to commit violence or injury upon the person or goods of any the said inhabitants, and be convicted thereof, they and every of them shall be reputed and punished as rioters, and the act of terror or violence, or design of violence, shall be accounted and deemed a riot. And whosoever shall introduce into this province and territories any rude or riotous sports, as prizes, stage-plays, masks, revels, bull-baitings, cock-fightings, bonfires, with such like, or shall practice the same, and be lawfully convict thereof, such person or persons shall, for every such offense, be reputed as breakers of the peace, and shall forfeit and pay twenty shillings, or suffer ten days' imprisonment at hard labor in the House of Correction.

[Section II.] And be it further enacted by the authority aforesaid, That if any person or persons, within this province and territories, shall be convict of playing at cards, dice, lotteries or such like enticing, vain and evil sports and games, all and every such person or persons, for every such offense, shall pay five shillings, or suffer five days' imprisonment in the House of Correction at hard labor as aforesaid.

Passed, November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II; and the Acts of Assembly, passed January 12, 1705-6, Chapters 127 and 128, and I Votes, 50.

CHAPTER III.

AN ACT AGAINST ADULTERY, FORNICATION, &c.

For the preservation of virtue, chastity and purity among the inhabitants of this province and territories, and for the prevention of the heinous sins of adultery and fornication:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority

of the same, That whosoever defileth the marriage bed by committing adultery, being legally convicted thereof, shall, for the first offense, be publicly whipped and suffer one whole year's imprisonment in the House of Correction at hard labor to the behoof of the public; and the guilty person or persons shall be liable to a bill of divorce, if required by the injured husband or wife within the said term of one whole year after conviction: And for the second offense shall be whipped with twenty-one lashes and suffer imprisonment seven years in manner aforesaid: And for the third offense shall, over and above the said punishment, be branded in the forehead with the letter A. And every person convicted of having committed fornication shall pay (both man and woman) ten pounds each, or be publicly whipped with twenty-one stripes on his and her bare back severely laid on, or be enjoined marriage, if it may be done. And if any woman within the said province or territories shall have a child born of her body in the absence of her husband, and shall not be able, by credible evidence, to prove that her husband hath cohabited or been in company with her, or hath been in the county where she liveth, within the space of one year last past before the birth of the said child, such woman shall be liable to be punished as an adulteress.

[Section II.] And be it further enacted by the authority aforesaid, That if an unmarried woman, absenting herself from the place where she usually lived, shall come into any county within this government, and there bear a bastard child, she shall be liable to be punished in the county where the said child is born, as she should or might have been had the child been there begotten. And whosoever, within this province or territories, shall knowingly entertain or shelter any such woman without giving notice thereof to some one justice of the peace, within three days after her coming into his or her house, shall forfeit five pounds for every such offense.

[Section III.] And be it further enacted, That if any woman-servant shall bear a bastard child within the time of her servitude, in regard of the loss and trouble her master or mistress must sustain thereby, she shall serve one whole year after her time by indenture or covenant is expired. And the man

charged by the woman to be the father, she holding constant in her charge, shall be the reputed father (although no person be accused by her in the time of her travail), unless the circumstances of the case and place be such, on behalf of the man charged, as that the court that hath cognizance thereof shall see reason to acquit him, and otherwise dispose of the child and education thereof. And every man being legally convicted to be the reputed father of a bastard child as aforesaid, shall give security to the court to take the care and be at the charge of bringing up the same, by such assistance of the mother as nature requires, and such further assistance as the court from time to time shall see cause to order.

/Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 122.

CHAPTER IV.

AN ACT AGAINST RAPE OR RAVISHMENT.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That whosoever shall commit a rape, or ravish any maid or woman, within this province or territories, being convicted thereof, shall, for the first offense, be publicly whipped with thirty-one lashes on his bare back, well laid on, and shall suffer seven years' imprisonment at hard labor. And if he be an unmarried person he shall forfeit all his estate; and if married, one-third part thereof, one-half of such forfeiture to the proprietary and governor and the other half to the use of the poor. And for the second offense, he shall suffer castration and be branded with the letter R in his forehead.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 120.

CHAPTER V.

AN ACT AGAINST INCEST, SODOMY AND BESTIALITY.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That whosoever shall be convicted of having committed incest, shall forfeit one-half of their estates to the use of the proprietary and governor, and suffer one whole year's imprisonment in the House of Correction at hard labor to the use aforesaid: and for the second offense, imprisonment during life. And whosoever shall be legally convicted of sodomy or bestiality, shall suffer imprisonment during life, and be whipped at the discretion of the magistrates, once every three months during the first year after conviction. And if he be a married man, he shall also suffer castration, and the injured wife shall have a divorce if required. And if a married woman be legally convicted of bestiality her husband may have a divorce if requested.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapters 121 and 124.

CHAPTER VI.

AN ACT AGAINST BIGAMY.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That whosoever shall be convicted of having two wives or two husbands at one and the same time, shall be imprisoned all their lifetime in the House of Correction at hard

labor, to the behoof of the former wife and children or former husband and children. And if any man or woman being unmarried shall knowingly marry the husband or wife of another person, such man or woman shall be punished as aforesaid. And the first wife or husband of the person offending against this act, shall have a bill of divorce granted against her or his husband or wife so offending, if desired.

Passed November 27, 1700: repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 123.

CHAPTER VII.

AN ACT AGAINST ROBBING AND STEALING.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That if any person shall be legally convict of stealing, or fraudulently taking or carrying away of any living goods or cattle from any the inhabitants or others within this province or territories, and the same goods or cattle stolen be found alive and returned to the owner at his or her dwelling-house, the felon shall make double satisfaction besides the goods returned; but if the goods or cattle be not found and returned to the owner thereof, then the felon shall make fourfold satisfaction. And if the justices, at the court of quarter sessions where such felon shall be convict, see cause, they shall order the felon to be publicly whipped, besides such satisfaction as aforesaid, and to wear a Roman T for six months, as hereafter is required. And in case the goods stolen be dead goods or merely personal goods, and not restored as aforesaid, and being under the value of five shillings, the felon or thief shall pay to the owner thereof fourfold. But if the goods so stolen amount to the value of five shillings or upwards, then the felon or thief shall pay unto the owner fourfold, and be whipped on his or her back not exceeding twenty-one lashes, and be ordered by the court to wear such a badge or mark of his or her thievery, upon the outside of his or her outer garment, in open

view, upon the outer part of the left arm, betwixt elbow and shoulder, at all times when he or she shall travel or be seen from his or her habitation or plantation where he or she shall live, on every day from sunrising to sunsetting, for the space of six months, which mark or badge or his or her thievery shall be a Roman T, not less than four inches in length each way, and an inch in breadth, of a different color from his or her outer garment, either red, blue or yellow, as the justices of the said court shall direct. And if such felon or thief shall at any time during the said term of six months be found without the said badge or mark of thievery, any one justice of the peace, upon his own knowledge or proof, shall order such felon or thief to be whipped, for the first offense not exceeding twenty-one lashes; and for the second offense he or she offending as aforesaid shall receive thirty-nine lashes on his or her bare back, well laid on, and be branded with the letter T on the forehead, or be banished out of the government never to return again, upon such penalty as the county court shall think fit to lay upon such persons.

And for the prevention of concealment or connivances of thievery.

[Section II.] Be it enacted by the authority aforesaid, That if any person or persons shall agree or compound with a thief, or take satisfaction for any stealing or goods stolen, such person shall forfeit twice the value of the sum agreed for or taken.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Acts of Assembly passed October 28, 1701, Chapter 107; and January 12, 1705-6, Chapter 118.

CHAPTER VIII.

AN ACT ABOUT BOATS AND CANOES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority

of the same, That if any person or persons within this province or territories shall fairly take up any man's boat or canoe, the same being adrift, he shall receive as a reward, from the owner thereof, the sum of five shillings for a boat, and two shillings sixpence for a canoe. And if any person or persons shall, at any time after publication of this law, take, carry away or set adrift a vessel, boat or canoe, from any landing within this province or territories, without leave or consent first had and obtained from the owner thereof, [he] shall pay double the value of such vessel, boat or canoe; and the property of the vessel, boat or canoe so taken away or set adrift, as aforesaid, shall still remain in the master or owner thereof. And the master or owner of the same to have one-half of the said penalty or forfeiture.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; repealed by the Act of Assembly, passed March 20, 1810, P. L. 188.

CHAPTER IX.

AN ACT AGAINST BREAKING INTO HOUSES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That whosoever shall break into the dwelling-house, shop, warehouse or store of any other person within this province or territories, shall be publicly whipped with twenty-one stripes on his or her bare back, well laid on, and suffer six months' imprisonment at hard labor. And shall, moreover, make fourfold satisfaction for what he or she shall be proved to have taken out of the said house, shop, warehouse or store; and if unable to make such satisfaction, then he or she shall be sold for that end; and if such offense be committed in the night time, the offended shall be whipped as aforesaid and suffer a

twelve months' imprisonment at hard labor, and be branded on the forehead with the letter T, and for the second offense shall suffer imprisonment during life.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 117.

CHAPTER X.

AN ACT AGAINST FIRING OF HOUSES, &c.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That whosoever shall be convicted of wilfully firing any man's house, warehouse, outhouse, barn or stable, shall forfeit his or her whole estate to the party suffering, and be imprisoned all their lives in the House of Correction at hard labor to the behoof of the said party suffering. And whosoever shall be convicted of willfully firing any man's stacks or ricks of corn, hay, wood or fence, or any man's vessel, boat or canoe, shall make fourfold satisfaction and suffer a year's imprisonment as aforesaid, to the use and behoof of the party suffering; and if the party offending be unable to make such satisfaction, then he or she shall be sold to the behoof of the party suffering.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 125.

CHAPTER XI.

AN ACT AGAINST FORCIBLE ENTRY.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province

and Territories, in General Assembly met, and by the authority of the same, That whosoever shall violently or forcibly enter in to the house or possessions of any other person within this province or territories, being duly convicted thereof, shall be punished as a breaker of the peace, and make such satisfaction to the party aggrieved as the circumstances of the fact will bear.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly passed March 1, 1799, Chapter 2028.

CHAPTER XII.

AN ACT AGAINST MENACING AND ASSAULT AND BATTERY.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and counties annexed in General Assembly met, and by the authority of the same, That whosoever shall assault or menace his or her parent, and be duly convicted thereof, shall suffer six months' imprisonment at hard labor, and be publicly whipped with thirty-one lashes on his or her bare back, well laid on. And whosoever shall assault or manace a magistrate, and be convict thereof, shall be fined in any sum not exceeding five pounds. And if any servant shall assault or menace his or her master or mistress, and be convict thereof, he or she shall be imprisoned six months, and at the expiration of their time shall make such satisfaction for the master's or mistress' loss of the said six months, as two justices of the peace shall appoint. And if any person or persons shall write or speak slightly, or carry themselves abusively against any magistrate or person in office, being duly convicted thereof, such person, for every such offense, shall be fined according to the quality of the magistrate or officer and nature of the offense: Provided, It be not less than five nor more than fifty shillings. And if any person be

convict of committing an assault or battery on the person of another, such person shall be reputed a breaker of the peace, and shall be punished according to the nature and circumstances of the fact.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, Paragraph 54.

CHAPTER XIII.

AN ACT AGAINST MURDER.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That if any person within this province or territories thereof, shall willfully or premeditatedly kill another person, or willfully or premeditatedly be the cause of, or accessory to, the death of any person, such person guilty as aforesaid shall suffer death, and one-half of his, the said criminal's estate shall remain to his wife and children; and in case he leave no wife nor children then to the next of his kindred, not descending lower than the second degree, to be claimed within three years after the criminal's death, and the other half of his estate shall be forfeited to the proprietary and governor and his heirs.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 116.

CHAPTER XIV.

AN ACT AGAINST SEDITION, SPREADING FALSE NEWS AND DEFAMATION.

For the coercion of evil-minded persons that, by seditious words or practices, may endeavor to disturb the public peace and quiet of this government:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That if any person shall speak, act or write anything tending to sedition or disaffection to this government, or disturbance of the peace thereof, or shall maliciously report and spread abroad false news, tending thereto, such person shall be fined, at the discretion of the justices of the respective county court, not less than five pounds, or three months' imprisonment at hard labor in the House of Correction. And who-soever shall by word or writing unjustly defame any person whatsoever, being duly convicted thereof, shall be fined in any sum not less than twenty shillings, or shall be otherwise punished by ten days' imprisonment, at the discretion of the justices of the county court.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XV.

AN ACT AGAINST REMOVING LANDMARKS.

For the greater security and certainty of the boundaries of land:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That no person in this province or counties annexed, shall cut, fell, alter or remove any certain bounded tree or other allowed landmark, to the wrong of his neighbor or any other person, under the penalty of any sum not less than ten pounds.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed March 1, 1799, Chapter 2023.

CHAPTER XVI.

AN ACT AGAINST DEFACERS OF CHARTERS, &c.

Whereas the security of titles and property in a great measure depends on the safety and certainty of writings and records:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That whosoever shall forge, deface, corrupt or embezzle any charters, gifts, grants, bonds, bills, wills, conveyances of contracts, or shall deface or falsify any enrolment, registry or record, within this province or territories, shall forfeit double the value of the damage thereby sustained, one-half whereof shall go to the party wronged; and the person so offending shall be discarded from all places of trust, and publicly disbraced as a false person, in the pillory or otherwise, at the discretion of the court before whom the cause shall be tried.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed March 1, 1799, Chapter 2023.

CHAPTER XVII.

AN ACT FOR COUNTY SEALS AND AGAINST COUNTERFEITING HANDS AND SEALS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That there shall be a county seal in every county of this province and territories thereof for the use of each county. And if any person within the said province or territories shall

be convicted of counterfeiting the hand or seal of another, such person shall suffer three months' imprisonment at hard labor, and be fined treble the value he or she shall have made or attempted to have made thereby. And whosoever shall counterfeit or imitate any of the above said county seals, upon conviction thereof, shall suffer twelve month's imprisonment as aforesaid, and be fined as the respective county court shall see meet. And whosoever shall counterfeit or imitate the privy or [the] broad seal of the said province and territories, being convicted thereof, shall suffer seven years' imprisonment as aforesaid and be fined at the discretion of the governor and council.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 149.

CHAPTER XVIII.

AN ACT FOR REGULATING THE INTEREST OF MONEY.

For prevention of extortion in usurers, and the exaction of immoderate interest for money in this province and countries annexed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That no person shall, directly nor indirectly, take for the loan or use of money, or any other commodities, above the value of eight pounds, for the forbearance of one hundred pounds, or its value, for one year, and so, proportionably, for a greater or less sum. And whosoever shall be proved to have received or taken more than as aforesaid, shall forfeit the money and other things lent, one-half to the use of the proprietary and governor and the other half to the informer.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed March 2, 1722-23, Chapter 262.

CHAPTER XIX.

AN ACT OF PRIVILEGES TO A FREEMAN.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That no freeman of this province or countries annexed, shall be taken, or imprisoned, or disseized of his free-hold or liberties, or be outlawed or exiled, or any otherwise hurt, damned or destroyed, nor be tried or condemned but by the lawful judgment of his twelve equals, or by the laws of this province and territories thereof.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed May 28, 1715, Chapter 200.

CHAPTER XX.

AN ACT AGAINST BUYING LAND OF THE NATIVES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person presume to buy any land of the natives within the limits of this province and territories, without leave from the proprietary thereof, every such bargain or purchase shall be void and of no effect.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and a supplement, passed February 14, 1729-30, Chapter 312.

CHAPTER XXI.

AN ACT DIRECTING HOW PETTY OFFENSES SHALL BE PUNISHED.

Whereas many times, persons for misdemeanors, the fine of which is but small, being presented by the grand jury (which hath been the usual course of trials in such cases heretofore), have been put to great charges by reason of the fees that have accrued thereupon: for prevention whereof,

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That where the fine doth not exceed twenty shillings, one or more justices of the peace, upon due proof of the offense, or being committed in his or their presence, may determine and give judgment in every such case, and issue warrants to the constable to levy the said fine upon the offender's goods and chattels by distress and sale thereof; or may commit the offender to prison, as the law shall direct or require, except in such cases where the law leaves the fine to the discretion of the county court.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed October 28, 1701, Chapter 105, and the act passed March 11, 1789, Chapter 1394, as to Philadelphia.

CHAPTER XXII.

AN ACT FOR THE NAMES OF DAYS AND MONTHS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That it shall and may be lawful to call and write

the months of the year and days of the week, as in scripture they are called, viz., the First, Second and Third, &c., months of the year, and the First, Second and Third days of the week, beginning with the day called Sunday, and the month called March, according to the English account.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XXIII.

AN ACT FOR THE BETTER PROVISION FOR THE POOR WITHIN THIS PROVINCE AND TERRITORIES.

Whereas there now is, and hereafter may frequently happen to be, many indigent and poor persons, as well young as old, within this province and territories, that may stand in want of and require a more speedy relief than can be made by the overseers of the poor, where such objects of charity happen to be or come:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all persons falling into decay, want or poverty, upon their complaint made to the justices of the peace and overseers of the poor of the respective counties where such decayed or indigent persons shall happen to be or reside, the justices of the peace and overseers of the poor shall take due care to relieve such poor and indigent persons; and for their encouragement thereunto they shall have and receive all such sum or sums of money as shall be by them distributed and applied to the uses aforesaid, out of the first moneys as shall be raised in each respective county.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, supplied by the Act of Assembly, passed January 12, 1705-6, Chapter 154.

CHAPTER XXIV.

AN ACT ABOUT RECORDING OF DEEDS.

To prevent any damage that may arise for not recording of deeds, gifts, grants and charters, enjoined by the late laws of this government:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That such writings, though they were never recorded nor enrolled according to law, yet the same are hereby indemnified and declared as good and authentic as if they had been duly entered and enrolled. And it is the true meaning of this act that no deeds or other writings shall be required to be recorded, but that such deeds or writings as shall be enrolled or registered in the rolls office, the explication of the records of the same, in all courts of judicature shall be allowed and judged as valid as the originals.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 186.

CHAPTER XXV.

AN ACT FOR THE PREVENTING OF CLANDESTINE MARRIAGES.

For the preventing of clandestine, loose and unseemly proceedings in this province and counties annexed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all marriages not forbidden by the law of God shall be encouraged, but the parents or guardians shall, if conveniently [they] can, be first consulted with, and the parties'

clearness of all engagements signified by a certificate from some credible persons where they have lived or do live, produced to such religious society to which they relate, or to some justice of the peace of the county in which they live, and by their affixing their intentions of marriage on the court-house or meeting-house doors, in each respective county where the parties do reside or dwell, one month before solemnization thereof; the which said publication, before it be so affixed as aforesaid, shall be brought before one or more justices of the peace in the respective counties to which they respectively belong, which justices shall subscribe the said publication, witnessing the time of such declaration and date of the said publication, so to be affixed as aforesaid. And that all marriages shall be solemnized by taking one another husband and wife before sufficient witnesses; and the certificate of their marriage under the hands of the parties and witnesses, at least twelve, and one of them a justice of the peace, shall be brought to the register of the county where they are married, and registered in his office; and if any servant or servants shall procure themselves to be married without consent of his or her master or mistress, [he or she] shall for such, their offense, each of them serve their respective masters or mistresses one whole year after the time of their service (by indenture, law or custom) is expired; and if any person being free shall marry with a servant as aforesaid, he or she so marrying shall pay to the master or mistress of the servant, if for a man twelve pounds; if a woman, six pounds or one year's service; and the servant so being married shall abide with his or her master or mistress according to indenture or custom, and one year after as aforesaid. And if any person shall presume to marry, or join any in marriage, contrary to this act, such persons so marrying shall pay ten pounds to the proprietary and governor; and the persons so joining other in marriage shall forfeit and pay twenty pounds to the proprietary and governor, and pay damages to the parties grieved, to be recovered in any court of record within this government.

Provided, That this law shall not extend to any who shall marry or be married in the religious society to which they be-

long, so that they observe the methods of publication as before in this law expressed.

[Section II.] And it is further enacted, That no license or dispensation shall hinder or obstruct the force or operation of this act in respect of publication, under the penalty of one hundred pounds.

Passed November 27, 1700; repealed by the Act of Assembly, passed October 28, 1701, Chapter 109, and never considered by the Crown.

CHAPTER XXVI.

AN ACT ABOUT BINDING TO THE PEACE.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging in General Assembly met, and by the authority of the same, That whosoever shall threaten the person of another, to wound, kill or destroy him, or do him any harm in person or estate, and the person so threatened shall appear before a justice of the peace and attest that he believes that by such threatening he is in danger to be hurt in body or estate; such person so threatening as aforesaid shall be bound over, with one sufficient surety, to appear at the next sessions or county court, to be holden for the county where such offense was committed, to be proceeded against according to law; and, in the meantime, to be of his good behavior and keep the peace towards all the King's subjects.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, repealed by the Act of Assembly, passed March 31, 1860, P. L. 451.

CHAPTER XXVII.

AN ACT LIMITING THE PRESENTMENTS OF THE GRAND JURY.

For the prevention of unnecessary presentments and charges to the inhabitants of this province and territories:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That from henceforth, nothing which may be determined by justices of the peace according to law, shall be presentable by any the grand juries of this province and territories, nor shall any indictment for trespass hereafter lie where the plaintiff may have his remedy against the defendant by the laws of this government, any law, usage or custom to be contrary thereto in anywise notwithstanding.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 129.

CHAPTER XXVIII.

AN ACT TO ASCERTAIN THE NUMBER OF MEMBERS OF ASSEMBLY AND TO REGULATE THE ELECTIONS.

For the prevention of all dispute and uncertainty for the future, what persons shall be accounted freeman of this province and territories, and have right of electing or being elected members of assembly:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That there shall be four persons elected yearly in each respective county of this province and territories to serve as members of assembly. And that no inhabitant of

this province and territories shall have right of electing or being elected as aforesaid, unless he or they be natural or native-born subject or subjects of England, or be naturalized in England or in this province and territories, and unless such person or persons as aforesaid be of the age of twenty-one years or upwards, and be a freeholder or freeholders of this province or territories, and have fifty acres of land or more well seated and twelve acres thereof or more cleared and improved, or be otherwise worth fifty pounds lawful money of this government clear estate, and have been resident therein for the space of two years before such election.

And to the end that elections, on which the good of the government so much depends, may not be corruptly managed or obtained:

[Section II.] It is enacted by the authority aforesaid, That all elections of the said representatives shall be free and voluntary, and that the elector that shall receive any reward or gift for his vote shall forfeit his right of electing for that year and be fined in the sum of five pounds to the use of the proprietary and governor. And that all and every person and persons that shall give, offer or promise any reward to be elected, or that shall offer to serve for nothing or less allowance than the law prescribes, shall be fined in the like sum of five pounds for the use aforesaid, and be incapable of serving for that year. And the representatives so chosen as above directed, shall yield their attendance accordingly, and being in assembly shall be the sole judges of the regularity or irregularity of the elections of the respective members according to this act. And if any person or persons so chosen to serve as aforesaid, shall be willfully absent from the service he or they are elected unto every such person or persons shall be fined in the sum of twenty pounds to the use aforesaid, unless his or their excuse shall be allowed by the assembly. And in case any person or persons so chosen as aforesaid, shall die in the meantime, or be rendered incapable, then and in such case it shall be lawful for the proprietary and governor, and his successors, and his or their lieutenant and governor for the time being, after knowledge thereof, to issue his or

their writ or writs to the sheriffs of the respective counties for which the said person or persons were chosen, immediately to summon the freemen of the same, to elect another member or members in the room and stead of such absent, deceased or incapable person or persons, and to return the same, duly executed.

And for the prevention of all just exceptions or complaints for want of due notice of elections:

[Section III.] Be it enacted by the authority aforesaid, That publication of all and every writ or writs for elections as aforesaid, shall be made by the several sheriffs of this province and territories in their respective counties, or by some others by them severally appointed to read the same in the capital town or most public place within their respective bailiwicks, between the hours of ten in the morning and two in the afternoon, with an advertisement posted upon some tree or house, in the way leading from every hundred or precinct to the said capital towns or places respectively, and also upon the court-houses and public fixed meeting houses for religious worship in the said respective counties, with all convenient speed after he receives the writ; and also give notice thereof, to every constable of the several hundreds and townships, which constables are required to promulgate the same, under the penalty of five pounds each, for each offense; and in case any sheriff shall be deficient therein, he shall be fined in the sum of fifty pounds for each offense. And in case any sheriff shall misbehave himself in the management of the aforesaid elections, he shall be punished accordingly at the discretion of the governor and council for the time being.

[Section IV.] And be it further enacted by the authority aforesaid, That every member chosen or to be chosen by the freemen as aforesaid, to serve in assembly, shall be allowed the sum of six shillings by the day, and the speaker ten shillings per day, during his and their attendance on the service thereof; and that every member of assembly shall be allowed towards his traveling charges after the rate of three pence for each mile both going

to and coming from the place where the assembly is or shall be held.

[Section V.] An be it further enacted by the authority aforesaid, That all laws hereafter to be made in this province and territories shall be fairly engrossed in rolls of paper or parchment before the final passing thereof.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly passed January 12, 1705-6, Chapter 137.

CHAPTER XXIX.

THE LAW ABOUT ATTACHMENTS.

Whereas there is a necessity for a law in relation to foreign attachments, and that the laws of this government have hitherto been deficient in that respect, and that debts due to the inhabitants of this province and territories from foreigners abroad, could not here be recovered against the said foreigners by attaching of their goods, if the said foreigners were absent or did not appear, because of the aforesaid defect: to the end therefore that for the future the like inconveniency may be redressed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met [and by the authority of the same], That the justices of the respective county courts within this province and territories, shall and are hereby empowered to grant writs of attachment, which attachments so granted shall be duly served by the respective sheriffs or coroners, as the case requires, upon the lands and tenements, goods and chattels of such person or persons against whom the same shall be awarded, in whose hands or possession the same may be found; returnable to the next succeeding court respectively, where the party may proceed to trial, and shall have judgment granted the third court after the effects are seized.

[Section II.] Be it further enacted by the authority aforesaid, That the person or persons whose estate or effects are so attached, shall be called the defendant in the attachment, and the persons in whose hands or possession the same estate or effects are attached, shall be called the garnishee, and shall be obliged to appear in court at the return of the attachment, and answer what shall be objected against him, and abide the judgment of the court, who shall be allowed out of the effects attached reasonable cost for his attendance. And that the manner of executing writs shall be by the officers going to the house or land, or to the person in whose hands or possession the defendant's estate or effects are supposed to be, and then and there declaring in the presence of one or more credible person or persons of the neighborhood, that he attacheth the same house or land or other effects, from and after which declaration the house or land, money and effects so attached shall remain in the officer's power, and be by him secured in order to answer and abide the judgment of court in that case, unless the garnishee will give security therefor. And if the plaintiff in the attachment obtain a verdict, judgment and execution for the estate, money and goods in the garnishee's possession, yet the defendant in the attachment may, at any time before the money be paid, put in bail to the plaintiff's action upon which the attachment is grounded, whereby the garnishee will or shall be immediately discharged. And if an attachment shall be made for goods or effects, and the garnishee plead he has no goods or effects in his hands at the time of the attachment, or at any time after, and the plaintiff prove the contrary, the jury in such case being satisfied that the proof is plain and full, shall find for the plaintiff and say what goods or effects they find in the garnishee's hands; whereupon judgment shall be entered, that appraisement may be made of the said goods or effects so found by the jury, and a precept shall be granted requiring the sheriff to get the same appraised; and if the garnishee will not produce them, execution shall be forthwith awarded for the value thereof according to appraisement, to be levied upon the lands, tenements, goods and chattels of the garnishee.

Provided always, That no writs of attachment shall hereafter be granted against any person or persons, but such only as, at the time of the granting of such writs, are not resident or residing within this province or territories, or are about to remove into some other colony or place, or shall refuse to give sufficient security to the complainant for the debt or other demand.

Provided also, That no attachment shall be made or laid upon lands or tenements, where the party will show any goods or chattels in his own or any other person's hands to be attached: and in all cases the house or plantation where the defendant dwells shall be last attached.

Provided also, That after judgment obtained by the plaintiff upon any attachment against non-residents, the plaintiff shall, before execution is awarded, find sureties, who shall undertake for the plaintiff, that if the defendant in the attachment shall within a year and a day next following, come into court and disprove or avoid the debt recovered by the plaintiff against him, that then the plaintiff shall restore to the defendant the money or other effects by the plaintiff attached and condemned, or so much thereof as shall be disproved, or else that they will do it for him.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the *Acts of Assembly* passed October 28, 1701, Chapter 108, and January 12, 1705-6, Chapter 152.

CHAPTER XXX.

AN ACT FOR NATURALIZATION.

Forasmuch as the just encouragement of the inhabitants of this province and territories is likely to be an effectual way for the improvement thereof; and since some of the people that live therein, and are likely to come thereinto, are foreigners and not freemen according to the acceptation of the laws of England; the consequences of which may prove very detrimental to

them in their estates and traffic, and injurious to the prosperity of this province and territories:

[Section I.] Be it therefore enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of the said Province and Territories in General Assembly met, and by the authority of the same, That it shall and may be lawful for the proprietary and governor and his heirs, or his or their lieutenant and governor for the time being, by a public instrument under his or their broad seal, to declare any alien, aliens or foreigners being already settled or inhabiting within this government, or that shall hereafter come to settle, plant or reside therein, having first made and given his or their solemn engagement or declaration to be true and faithful to the King as sovereign, and to the proprietary and governor of this province and territories, according to the laws and usages thereof, before the governor for the time being; to be, to all intents and purposes, fully and completely naturalized; and the persons so approved of and named in such instrument or instruments as aforesaid, shall by virtue of this act, have and enjoy to them and their heirs the same rights and immunities of and unto the laws and privileges of this government, as fully and amply as any other of the King's natural-born subjects have or enjoy within the same, any former law, act, ordinance, custom or usage to the contrary in anywise notwithstanding.

And to the end such letters or instruments under the broad seal of this province, as aforesaid, may be obtained without any great difficulty or charge:

[Section II.] Be it further enacted, That the governor shall have and receive for the same, twenty shillings from every person already settled and residing within this government, that shall take out such instrument, and thirty shillings from every alien or foreigner that shall come to settle under this government, and no more; and the secretary shall have six shillings; and the keeper of the great seal six shillings for each and every such public instrument granted as aforesaid.

Provided, That nothing in this act contained shall be construed to enable or give power or privilege to any foreigner to do or execute any matter or thing which, by any act of parlia-

ment in England concerning the King's plantations, he is disabled to do or execute.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That all Swedes, Dutch and other foreigners who were settled in this province or territories before the date of the King's letters patent to the proprietary and governor, shall be deemed and by this act are declared to be fully and completely naturalized, and shall by virtue hereof have and enjoy to them and their heirs the same rights and immunities, of and unto the laws and privileges of this government, as any other foreigners may or can enjoy by virtue of this act, anything herein to the contrary notwithstanding.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix 1, Section II.

CHAPTER XXXI.

AN ACT FOR ASCERTAINING THE DESCENT OF LANDS, AND BETTER DISPOSITION OF THE ESTATES OF PERSONS INTESTATE.

For the prevention of disputes and contests at law or otherwise concerning estates, real and personal, of persons dying intestate, and for the more equal payment of their debts:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Counties annexed in General Assembly met, and by the authority of the same, That all lands, tenements and hereditaments and all personal estates whatsoever which any person hath or is seized or possessed of, in his or her own right, at the time of his or her decease, within this province and territories, shall be liable to be seized and sold by the lawful executor or administrator of the deceased by any lawful deed or conveyance, duly executed and approved and acknowledged in open court according to law, or by judgment or order of the respective courts of record, upon due procedure therein respectively had, for the payment of decedent's just debts, so far as the said estates shall

exten in due order of law: (That is to say) first, funeral expenses; secondly, debts and duties due to the King and the proprietary and governor; thirdly, judgments; fourthly, debts due by recognizance; fifthly, debts due by obligation; sixthly, bills; seventhly, rents; eighthly, servants' and workmen's wages; ninthly, merchants' and traders' books and promises by word, arrears of account and such like: which said seizures, sales and payments shall be binding and conclusive against such decedents, their heirs and all persons whatsoever claiming by, from or under them or any of them, and after all debts and dues paid and satisfied as aforesaid, the surplusage or residue (if any be) of all the testator's said personal estate, shall be by the executors divided and proportionably distributed according to the said testator's last will.

Provided always, That the widow shall not have less than one-third part of the said clear personal estate, except where equivalent provision hath before been made for her by the testator. And that the residue of the personal estate of intestates (all their debts being paid as aforesaid) shall be disposed of and distributed in the manner following: (That is to say) one-third part thereof to the relict or widow of the intestate aforesaid, and all the residue by equal portions to and amongst the children of the intestate, and such persons as legally represent such children, in case any of the children be then dead, other than such child or children who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate in his or her lifetime, by portion or portions equal to the share which shall by such distribution be allotted to the other children, to whom such distribution is to be made; and in case any child who shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate in his or her lifetime by portion, not equal to the share which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the said intestate's estate shall be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the lifetime of the intestate, as shall make the estate of all the said children to be equal, or as near as can be estimated.

Provided, That the first-born, if a son, of the said intestate shall have a double portion or share of such clear residue of the intestate's estate as aforesaid, the widow's third being first therefrom divided: and in case there be no children nor legal representatives of them, then one moiety of such estate shall be allotted to the widow of the intestate, and the residue of the said estate distributed equally to every of the next of kindred of the intestate, who are in equal degree, and those who legally represent them: Provided, That there shall be no representations admitted amongst collaterals after brothers' and sisters' children. And in case the intestate shall leave no widow, then all the said estate shall be distributed equally to and amongst the children (the first-born, if a son, having a double share as aforesaid); and in case there be no child, then to the next of kindred of the intestate in equal degree, and their legal representatives as aforesaid; and in no other manner whatsoever.

[Section II.] And be it further enacted by the authority aforesaid, That in case such intestate shall leave no known kindred, then all his lands, tenements and hereditaments shall descend and go to the immediate landlord of whom such lands are held, his heirs and assigns; and if held immediately of the proprietary, then to the proprietary, his heirs and assigns; and all the goods, chattels and personal estate whatsoever of such person dying intestate and without kindred as aforesaid, shall go to the proprietary and governor, his heirs and assigns.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That where such testators' or intestates' personal estate are sufficient to pay all debts and damages owing by them respectively at the time of his, her or their deaths, with all charges incident thereunto, then the real estates, lands, tenements and hereditaments of such testators and intestates shall be disposed of and distributed in manner following: all testators' real estates shall be disposed and remain according to the last will and testament of the testator.

Provided always that no less than one-third part of any real estate be allotted to the widow of such testator during her natural life, except where due and equivalent provision hath been made before by the testator; and one-third part of all lands

tenements and hereditaments of or belonging to any person dying intestate, shall go and be allotted to his widow for her life; and the residue and remainder thereof shall be distributed and allotted in the same manner as the surplusage of the intestate's personal estates above limited and directed: all which distributions of the remainders and surplusages as well of testator's as intestate's estates shall be made by the respective registers of the counties where such testator's or intestate's estates shall lie for the time being, within twelve months next after the decedent's death; and every one to whom any share in the distribution shall be allotted, shall give bond with sufficient sureties to the said register, that if any debt or debts truly owing by the intestate shall afterwards be sued for and recovered or otherwise duly made to appear, that then and in every case, he or she shall refund and pay back to the administrator his or her ratable part of such debt or debts, and of the costs of suit and charges to the administrator by reason of such debt accruing, out of the part or share to him or her allotted as aforesaid, thereby to enable the said administrator to pay and satisfy the said debt or debts discovered, after the distribution is made, as aforesaid, and that all such of the intestate's relations and persons concerned, who shall not lay legal claim to their respective shares of such estates within seven years after the decease of the intestate, shall be debarred from the same forever.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XXXII.

AN ACT FOR RAISING COUNTY LEVIES.

Whereas there is a continual occasion for a public county stock to defray the necessary charges of each county, for the support of the poor, building and repairing of prisons and bridges, paying of salaries belonging to assemblymen, paying

for wolves' heads and all other just debts and necessary charges:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That from henceforth it shall be lawful for the freemen of each respective county in this government, at such time as they shall, according to law, meet together to choose their representatives to serve in assembly, then and there to choose six persons of the substantial freeholders of the county, to be assessors thereof; and when so chosen the sheriff shall take their names in writing, under the hands and seals of at least six more of the substantial freeholders of the same county, who shall be entered upon record at the next county court.

[Section II.] And be it further enacted by the authority aforesaid, That the justices of each county shall, at their respective county courts to be held in the Seventh month yearly, or oftener if occasion be, with the assistance of the grand jury, and any four at least of the said assessors, calculate the public charge of their county, allowing all just debts, dues and accounts of the same; which said assessors shall, within six weeks after such calculation, make or lay a rate of assessment of one penny per pound (and so proportionably for every greater or less sum) for every pound clear value of all real and personal estates within the said county, except household goods and implements used in trade and getting a livelihood, having a due regard to such as have a charge of children, the clear value of whose estates, both real and personal, amounts not to thirty pounds; and after the rate of four shillings per head (and so proportionably for a greater or less sum) of all freemen that are sixteen years of age or upwards, not having families or a charge to maintain, and are not under their parents' tuition, and assisting them in their plantations or trades, and are not otherwise rated by this act.

Provided always, That no person that has been a bond-servant by indenture or otherwise in this government, shall be rated the above said four shillings per head until he has been free from his servitude the space of one year. And the justices of the

respective counties or some one of them shall by warrant cause the constables to bring in certificates in writing of the names of every person in their respective limits, with which they shall be charged, and of the substance and value of every one of them who are to be rated by this act; which said substances and values shall again be liable to the valuation of the assessors aforesaid, who are, by all lawful means they can, to inform themselves of the true valuation of all the clear estates both real and personal within their respective counties, and shall assess themselves and others for and in respect of the said estates as aforesaid. And the assessors shall appoint so many collectors as they shall think fit, to collect and gather the same, who shall have for his or their pains allowed by the treasurer one shilling per pound, or so much as the assessors can agree for. And the constables in each township or precinct within this province shall from time to time yearly, as the assessors shall direct, take lists of the names of all tithables and taxable persons in their respective townships or precincts; and the constables in each hundred or township within the three lower counties annexed to this province, shall in the Fourth month yearly take a list of all tithables and taxable persons in the respective hundreds or townships in the said annexed counties. And wherever any freemen are found, either in the province or counties annexed, that have no houses nor plantations of their own, but are moving from place to place, as they can find labor, or their business calls them, the owner of the place where such are hired or are inmates shall be chargeable or answerable for the levy or rate assessed or taxed upon such freemen as aforesaid; and the said freemen shall work for or otherwise allow and repay the same to such owners or persons as shall entertain them respectively. And if any such person, master or landlord shall refuse to pay such tax, the said collectors shall levy the same upon such person's goods and chattels in manner hereafter in this act expressed, as if such tax had been laid upon the said person, master or landlord himself.

[Section III.] And be it further enacted by the authority aforesaid, That the said assessors shall appoint a treasurer in their respective counties, who shall keep a distinct book con-

taining a peculiar account of all the rates and assessments made as aforesaid, as also of all disbursements and payments he hath made by order from the justices and assessors; which said treasurer shall in the Seventh month yearly bring in his accounts, and make them up in open court before the justices of the said court and assessors, and all others that are willing to be present at the auditing thereof; except in case of death or other extraordinary occasions that shall be allowed of by the court; and for his service he shall have so much as the assessors can agree with him for. And the assessors for their pains shall be allowed six pence per pound of all the sums by them assessed.

[Section IV.] And be it further enacted, For the further encouragement of the justices and overseers of the poor to disburse money upon any sudden or emergent occasion for the relief of the poor out of the first moneys that shall be raised to pay the county charges, the moneys laid out for the poor (before any other disbursements or payments be made) shall be first satisfied and fully paid.

Provided always, That the debts formerly due from the county may be in like manner paid, as those which shall be hereafter due.

[Section V.] And be it further enacted by the authority aforesaid, That if the collectors, so as aforesaid chosen, shall deny, neglect or refuse to collect any sum or sums of money, in form before mentioned assessed, and be convicted thereof, they and each of them so refusing or neglecting shall be fined by the justices of the respective county courts, in any sum not exceeding five pounds, to the use of the poor of that county.

[Section VI.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever within this government, who shall be assessed or rated any sum or sums of money by virtue of this act to be levied, shall deny, refuse or delay to pay the same, that then it shall and may be lawful for any collector of the respective county, by virtue of a warrant under the hand and seal of any of the justices of [the] peace of the county where such offender at the time doth reside (who by virtue of this act are required and authorized to grant such

warrants) to levy the same by distress and sale of such person's goods and chattels, returning the overplus (if any be) to the said person or persons that were the owners thereof, after the sum assessed and distrained for, [and] when all reasonable charges are deducted.

[Section VII.] And be it further enacted by the authority aforesaid, That the money and effects gathered and received by the said collectors within their respective limits, by virtue of this act, shall from time to time be duly paid to such receiver or receivers as shall be appointed to receive the same, whose receipts shall be sufficient discharges to such collectors.

[Section VIII.] And be it further enacted, That the respective sums assessed as aforesaid shall be gathered and received by the said collectors in current money of this province, or for want thereof in good merchantable county produce, at the current market price according to law, at such convenient place or places as the assessors shall appoint, any law, usage or custom to the contrary thereof in anywise notwithstanding.

[Section IX.] Provided always, and be it further enacted, That if any person or persons assessed or rated for or in respect of any estate for which by this act he or they is [sic] or may be rated, do within four weeks after such assessment find him or themselves aggrieved thereby, such person or persons shall and may have the privilege to complain to the assessors that signed or allowed his or their rates; which said assessors shall meet and sit on the same day of the week on which they made the said assessment, four weeks after the same was made, to hear all such complaints, and shall then particularly examine the person or persons complaining, or any other person touching the value of the complainant's real and personal estate; and may thereupon abate, defalk or increase the said assessments according as the complainants shall appear to be worth, either by the parties' own attest or proof of others.

[Section X.] Be it also provided and further enacted by the authority aforesaid, That if at any time the freemen of any county shall neglect to choose assessors as aforesaid, or if when chosen, they do not attend their service as above directed, then the justices of the peace of the said county, together with the

grand jury thereof, may and shall perform all the several parts and duties of the said assessors, as fully and amply to all intents and purposes as such assessors themselves (were they chosen) by virtue hereof might or could perform, anything in this or any other act to the contrary in anywise notwithstanding.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed November 27, 1700, Chapter 79; January 12, 1705-6, Chapter 157; and June 7, 1712, Chapter 184; repealed by the Acts of Assembly, passed February 22, 1717-18, Chapter 231, and March 20, 1724-25, Chapter 284.

CHAPTER XXXIII.

AN ACT DIRECTING THE ATTESTS OF SEVERAL OFFICERS AND MINISTERS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all persons who shall hereafter be commissioned and appointed to be judges, justices, masters of the rolls, sheriffs, clerks, coroners, and all officers of state and trust in this government, and shall, when lawfully required, promise fidelity to the King as sovereign and to the proprietary and governor of this province and territories under the Crown of England an obedience to the laws of this government, and take the attests hereafter mentioned, shall be adjudged and are hereby declared to be qualified to act in their respective offices and places.

The form of judges' and justices' attests shall be in these words, viz.,

Thou shalt solemnly promise, that as judge or justice according to the governor's commission to thee directed, thou shalt do equal right to the poor and rich to the best of thy knowledge and power, according to law, and after the usages and consti-

tutions of this government; thou shalt not be of counsel of any matter or cause depending before thee, but shalt well and truly do thy office in every respect according to the best of they understanding.

The form of attest to be taken by the master of the rolls, secretaries, clerks and such like officers, shall be thus, viz.,

Thou shalt well and faithfully execute the office of _____, according to the best of thy skill and knowledge, taking the fees only that thou ought to receive by the laws of this government.

The form of the sheriffs' and coroners' attest shall be in these words, viz.,

Thou shalt solemnly promise that thou wilt well and truly serve the King and governor in the office of sheriff (or coroner) of the county of _____, and preserve the King's and governor's rights as far as thou can or may; thou shalt serve and return all the writs and precepts to thee directed; thou shalt take no bailiff or deputy but such as thou wilt answer for; thou shalt receive no writs except from such judges and justices who by the laws of this government have authority to issue and direct writs unto thee. And thou shalt diligently and justly do and accomplish all things appertaining to thy office after the best of thy wit and power, both for the King's and governor's profit, and good of the inhabitants within the said county, taking such fees only as thou ought to take by the laws of this government and not otherwise.

The form of a constable's attest shall be thus, viz.,

Thou shalt solemnly promise well and duly according to the best of thy understanding to execute the office of a constable for the town or county of _____, for this ensuing year, or until another be attested in thy room or thou shalt be legally discharged thereof.

The form of the grand inquest's attest shall be in these words:

Thou shalt diligently inquire and true presentment make of such matters and things as shall be given thee in charge, or come to thy knowledge touching this present service; the King's counsel, thy fellows' and thy own thou shalt keep secret, and in all things thou shalt present the truth, the whole truth and nothing but the truth to the best of thy knowledge.

This being given to the foreman:

The rest of the inquest shall be attested thus (by three at a time), viz.,

The same attestation that your foreman hath taken on his part, you will well and truly keep on your parts.

The form of the attest to be given to the traverse jury (by four at a time) shall be thus:

You solemnly promise that you will well and truly try the issue of traverse between our lord the King and A. B. whom you have in charge, according to your evidence.

In civil causes thus:

You solemnly promise that you will well and truly try the issue between A. B. plaintiff and C. D. defendant, according to your evidence.

The form of the attest to be taken by lawyers, attorneys and solicitors :

Wilt thou perform thy office of a lawyer, attorney or solicitor at law with faithfulness and diligence to the best of thy skill, according to the laws of this government; wilt thou behave thyself with reverence and duty to the proprietary and governor, and with respect to the council and all the courts of justice within this province and territories; wilt thou not take more fees nor oftener, nor plead otherwise than is by the laws allowed, nor take any fee or gratuity of both sides, nor commit barratry, champerty or maintenance, nor advise, countenance or plead for any litigious, false or vexatious person or cause: or anyway counsel, aid, abet or conceal any disaffected, seditious or turbulent person against the proprietary and governor or his heirs, or their rights, dignity or authority, or his or their government, courts, magistracy or officers; but will to the utmost of thy skill and power support, defend and maintain the same without any equivocation or mental reservation, according to the true intent and meaning of the laws of this province and counties annexed, and to the true and genuine sense of the words and engagements aforesaid?

[Section II.] And be it further enacted by the authority aforesaid, That no magistrate who scruples not administering an oath shall be denied or prohibited to administer it to any person who shall have freedom to take the same; and the administration thereof shall be construed and adjudged to be the act

of the said magistrate only, and shall be so entered upon record, and the same shall be valid in evidence out of court or if done in the court shall be as valid as done in the name of the court.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 160.

CHAPTER XXXIV.

AN ACT FOR THE BETTER ATTENDANCE OF THE JUSTICES ON THE SEVERAL COURTS OF JUDICATURE WITHIN THIS PROVINCE AND TERRITORIES.

To the end that the respective justices of the several counties within this province and territories may give their due attendance at the same courts, that business may speedily be effected and the people dispatched to follow their respective callings and affairs:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging in General Assembly met, and by the authority of the same, That the justices of the peace shall at the respective county courts give their attendance, under the penalty or forfeiture of thirty shillings, the one-half to the poor of the county, and the other to the proprietary and governor; to be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the majority of the justices at the next subsequent court, and to be directed to the sheriff of the county; unless such absent justice or justices shall give a sufficient reason for such his absence, to be allowed on by the said court at their next sitting thereof.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II.

CHAPTER XXXV.

AN ACT AGAINST JURORS ABSENTING, BEING LAWFULLY SUMMONED TO ATTEND THE SEVERAL COURTS OF JUDICATURE WITHIN THIS PROVINCE AND TERRITORIES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all persons, freemen within this province and territories, being duly and legally summoned to appear at any court to serve upon the jury or any inquest required by law, and [sic] shall neglect or omit to give their attendance, shall be fined by the respective courts where they were summoned to attend, in any sum not exceeding twenty shillings, for the use of the poor of the county where such offense shall be committed; unless at the next succeeding court they shall render a reasonable excuse for such their absence, to be allowed of by the judges or justices then present.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed May 20, 1767, Chapter 560.

CHAPTER XXXVI.

AN ACT FOR THE DETERMINING OF DEBTS UNDER FORTY SHILLINGS.

To the end that speedy justice may be done to the poor, and in small matters:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That upon complaint made to any justice of the peace, it shall and may be lawful for him, and he is hereby em-

powered, to issue out his warrant, directed to the constable, to summon the defendant to appear before him at such time and place as he shall appoint; and upon a full hearing and good evidence he shall give his judgment in the matter, which shall be final and conclusive to both plaintiff and defendant without further appeal; and execution shall be awarded against the person refusing to comply with the judgment, to levy the same upon his goods and chattels, and for want of goods and chattels against his body.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 130.

CHAPTER XXXVII.

AN ACT TO PREVENT IMMODERATE FINES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all fines shall be moderate, saving men's contenements, merchandise and wainage, which is to say, their furniture of their calling and means of livelihood.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XXXVIII.

AN ACT ABOUT DEFALCATIONS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, For the avoiding of numerous suits, if two men

dealing together be indebted to each other upon bonds, bills, bargains or the like, provided they be of equal dignity and clearness, the defendant shall, in his plea or answer to the plaintiff's declaration, acknowledge the debt which the plaintiff demands from him and defalk what the plaintiff is indebted to him the said defendant, upon the like dignity and clearness.

Passed November 27, 1700; repealed by the Queen in Council February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 150.

CHAPTER XXXIX.

AN ACT AGAINST SPEAKING IN DEROGATION OF COURTS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person or persons, at any time or times hereafter, speak rudely anything in derogation of any sentence or judgment given in any court of record within this province or territories, or shall misbehave himself in the said courts during the sitting thereof, such person so offending shall be fined at the discretion of that or the next court or sessions, not exceeding forty shillings.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XL

AN ACT FOR THE APPRIZEMENT OF GOODS.

[Section I.] Be it enacted by the Proprietary and Governor, by

and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the respective county courts within this province and territories shall and hereby have power, as often as they shall see cause, to nominate and appoint three sufficient, honest and discreet persons, whom they shall attest to be apprizers in their several and respective counties, to value and apprise all such goods and chattels as shall be taken upon executions, by any process out of the respective courts of this government, or as need shall require; which goods shall not be sold till such apprize ment be made by them as aforesaid, or any two of them, nor till seven days after the said apprize ment, to the end [that] the party or parties concerned may be present at the sale thereof, if they shall think fit; which sale shall be made openly and in a public way and manner, and the overplus to be returned to the owner. And in case the goods apprized will not sell for so much as the same are apprized and valued to be worth by the said apprizers, or any two of them as aforesaid, the creditor shall receive them for his pay, according as the same are valued and apprized, returning the overplus as aforesaid. And the said apprizers shall have as a fee two pence per pound, and two pence per mile journey fees.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed March 20, 1810, P. L. 188.

CHAPTER XLI.

AN ACT AGAINST BARRATORS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person within this province and territories, in any court within the same, be indicted, proved and ad-

judged a common barrator, vexing others with unjust and vexatious suits, he shall be adjudged a common barrator and his suits and actions rejected, if the court see cause for the same, and he punished for his barratry.

Passed November 27, 1700; allowed to become a law by lapse of time, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; repealed by the Act of Assembly, passed March 31, 1860, P. L. 451.

CHAPTER XLII.

AN ACT TO OBLIGE WITNESSES TO GIVE EVIDENCE AND TO PREVENT FALSE SWEARING.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging, in General Assembly met, and by the authority of the same, That there shall be two credible witnesses in all criminal cases in order to judgment; and such person or persons summoned by precept or process from any court or magistrate within this province or territories to deliver their evidence in any matter or difference, and [sic] shall not appear according to the tenor and contents of such process or precept, shall be fined at the discretion of a quorum of the justices of the present or succeeding court, to the use and benefit of the party grieved.

[Section II.] And be it further enacted by the authority aforesaid, That in case such person or witness summoned as aforesaid, give false evidence and be thereof lawfully convict, such person shall pay to the party grieved by such false evidence all such damage as the said party grieved shall sustain thereby, and be publicly exposed for a false witness, never to be credited again in any court or before any magistrate within the said province or territories:

[Section III.] And be it further enacted by the authority aforesaid, That whosoever shall be convict of lying in his or

her common conversation shall for every such offense pay half-a-crown or suffer three days' imprisonment at hard labor.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed November 27, 1700, Chapter 99, and the Act passed January 12, 1705-6, Chapter 160.

CHAPTER XLIII.

AN ACT CONFIRMING DEVISES OF LANDS AND VALIDITY OF NUNCUPATIVE WILLS.

To the end that lands and hereditaments may be enjoyed by the devisee and his heirs as amply as lands granted by deed by the grantee:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all wills in writing wherein or whereby any lands, tenements or hereditaments within this province or territories are or shall be devised, shall be as good and authentic in law (according to the tenure thereof) as any other conveyance for granting of such lands and premises, whether the said wills be made within or out of this province or territories.

Provided, the same be legally proved within this province or territories within six months after the death of the testator, or within eighteen months if the devisee live out of this government.

And for the preventing of all disadvantages and hardships that may accrue to any person for want of due proof of nuncupative or verbal wills, or by any pretending the same where no such will really is:

[Section II.] Be it enacted by the authority aforesaid, That all nuncupative wills made within this province or territories shall be of full force for all goods and chattels thereby devised or bequeathed.

Provided always, That the said nuncupative wills shall be reduced into writing within two days after the decease of the said testator, and subscribed by two sufficient witnesses who were present and heard the testator make the will, to be attested by any justice of the peace of the truth of the said nuncupative or verbal will within ten days after the death of the said testator; which said will being proved in the register's office in this province and territories within six months next after the testator's death, shall be good and valid in law, according to the purport thereof, for all goods and chattels therein bequeathed, as if the same had been originally made in writing by the testator and duly executed as aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That no will or testament or nuncupative will of any person *non compos mentis*, or not in his or her right mind and understanding, at the time of the making thereof, shall be good and valid in law.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 133.

CHAPTER XLIV.

AN ACT TO PREVENT THE GRIEVOUS SINS OF CURSING AND SWEARING WITHIN THIS PROVINCE AND TERRITORIES.

Whereas the sins of cursing and swearing are odious and abominable to Almighty God and all good men, and may draw down God's judgments upon any nation, country or province where such grand offenses go unpunished; for the prevention whereof, and to deter and punish all such persons within this province or territories as shall swear or accustom themselves to swearing or cursing:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person or persons within this province or territories, from and after the publication hereof, shall swear in his or her common conversation by the name of God, Christ

or Jesus, and shall be legally convict thereof by one or more credible witnesses before any one justice of the peace of the town or county where such offense was committed, shall for the first offense forfeit and pay the sum of five shillings, for the use of the poor of the county where such offense was committed, or suffer five day's imprisonment in the House of Correction at hard labor, and to be fed with bread and water only during that time; and for the second offense, six shillings, or six days' imprisonment as aforesaid; and for the third offense, ten shillings, or ten days' imprisonment as aforesaid; and for the fourth offense, shall be fined at the discretion of the county court, in any sum not exceeding five pounds, or be compelled to work in prison at hard labor, not exceeding two months, and shall be deemed a common swearer, and shall be liable to be whipped and to receive twenty-one lashes once in every three months, during the sitting of the county court, for seven years.

[Section II.] And be it further enacted by the authority aforesaid, That whosoever shall swear by any other name or thing, and is legally convict thereof, shall pay for every such offense half-a-crown, or suffer three day's imprisonment in the House of Correction, at hard labor, and to be fed with bread and water as aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That whosoever shall willfully, premeditatedly and despitefully blaspheme or speak loosely and profanely of Almighty God, Christ, Jesus, the Holy Spirit or the Scriptures of Truth, and is legally convicted thereof, shall forfeit and pay the sum of ten pounds, for the use of the poor of the county where such offense shall be committed, or suffer three months' imprisonment at hard labor, as aforesaid, for the use of the poor. And whosoever shall at any time curse himself or any other, or anything belonging to himself or any other, and is legally convicted thereof, shall pay for every such offense five shillings, or suffer five days' imprisonment as aforesaid.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed March 7, 1745-46, Chapter 369, and March 30, 1779, Chapter 833; repealed by the Act of Assembly, passed March 31, 1860, P. L. 451.

CHAPTER XLV.

AN ACT TO PREVENT ALL DUELING AND FIGHTING OF DUELS WITHIN THIS PROVINCE AND TERRITORIES.

For prevention of duelling and fighting of duels within this province and territories:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories, in General Assembly met, and by the authority of the same, That if any person within this government challenge the person of another to fight at sword, pistol, rapier or any other dangerous or destructive weapon, such person so challenging shall forfeit and pay (being lawfully convict thereof) the sum of twenty pounds, or suffer three months' imprisonment at hard labor; and the person accepting such challenge shall forfeit and pay the like sum of twenty pounds, or suffer imprisonment as aforesaid, the said forfeitures or payments to be to the use and behoof of the proprietary and governor, and to no other use whatsoever.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; repealed by the Act of Assembly, passed March 30, 1779, Chapter 83.

CHAPTER XLVI.

AN ACT FOR EMPOWERING WIDOWS AND ADMINISTRATORS TO SELL SO MUCH OF THE LANDS OF INTESTATES AS MAY BE SUFFICIENT TO CLEAR THEIR DEBTS, &c.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person die intestate, being owner of

lands within this province or territories thereof, and leave a legal issue behind him, but no sufficient personal estate for their maintenance or pay of debts, in such case it shall be lawful for the widow or administrator to make sale of such part or parcel of the said lands as the Orphans' Court shall think fit, towards the defraying of the just debts of such intestate, the education of his children and the improving the remainder of the estate (if any be) to their advantage.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 133.

CHAPTER XLVII.

AN ACT FOR THE PRESERVATION OF THE PERSON OF THE PROPRIETARY AND GOVERNOR.

For the preservation of the person of our proprietary and governor from the violent hands and destructive designs and attempts of wicked and unreasonable men, and that the awe of punishment may deter them from all such evil, willful and malicious purposes:

[Section I.] Be it enacted by the Proprietary and Governor, and the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person within this province or territories thereof shall compass, devise or endeavor the death, destruction or any bodily harm tending to the death or destruction, maim or wounding, imprisonment or restraint of the person of the proprietary and governor, in order to deprive or depose him of or from his government, or do stir up or assist any to invade this province or territories, such person being legally convicted thereof by the testimony of two or more credible witnesses proving the same, or by due course of law, shall forfeit half his estate real and personal, or suffer imprisonment during one whole year.

Provided always, That no person, by virtue of this act, shall incur any penalty hereinbefore mentioned, unless such person be prosecuted within three months next after the offense is committed, and indicted within three months after such prosecution, anything herein contained to the contrary notwithstanding.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XLVIII.

AN ACT FOR TAKING LANDS IN EXECUTION FOR THE PAYMENT OF DEBTS WHERE THE SHERIFF CANNOT COME AT OTHER EFFECTS TO SATISFY THE SAME.

To the end that no creditors may be defrauded of the just debts due to them by persons of this province or territories who have sufficient real estate, if not personal, to satisfy the same:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of the said Province and Territories in General Assembly met, and by the authority of the same, That all lands and houses whatsoever within this government shall be liable to sale, upon judgment and execution obtained against the defendant, the owner, his heirs, executors or administrators, where no sufficient personal estate is to be found; with this due proviso, that the messuage and plantation with its appurtenances, upon which the defendant is chiefly seated, shall not be exposed to sale before the expiration of one whole year after judgment is obtained, to the intent that the defendant, or any other on his behalf, may endeavor the redemption of the same and before any such lands, messuages or houses, or any other lands or houses whatsoever, taken in execution shall be sold, they shall be duly apprized by twelve honest and discreet men of the neighborhood, and that then it shall and may be lawful for the sheriff to make sale of, and convey the same under his hand and seal; after which sale

and apprizelement, made as aforesaid, such land and houses shall be and remain a free and clear estate to the purchaser or creditor, to whom they are so made over or sold, his heirs and assigns forever, as fully and amply as ever they were to the debtor.

[Section II.] Provided always and be it further enacted, That lawful interest shall be allowed to the creditor for the sum or value he obtained judgment for, from the time the said judgment was obtained till the time of sale, or till satisfaction be made.

Provided also, That the chief plantation or messuage shall be the last taken in execution; and that where the apprizelement of the lands taken in execution amounts to more than the debt, costs and damage, the creditor shall not be obliged in such case to take the whole and pay the overplus, but shall only take so much as to satisfy the execution, and no more.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 152; and the Act of Assembly, passed June 16, 1836, P. L. 772.

CHAPTER XLIX.

AN ACT FOR THE BETTER REGULATION OF SERVANTS IN THIS PROVINCE AND TERRITORIES.

For the just encouragement of servants in the discharge of their duty, and the prevention of their deserting their master's or owner's service:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That no servant, bound to serve his or her time in this province or counties annexed, shall be sold or disposed of to any person residing in any other province or government,

without the consent of the said servant and two justices of the peace of the county wherein he lives or is sold, under the penalty of ten pounds, to be forfeited by the seller.

[Section II.] And be it further enacted, That no servant shall be assigned over to another person by any in this province or territories but in the presence of one justice of [the] peace of the county, under the penalty of ten pounds; which penalty, with all others in this act expressed, shall be levied by distress and sale of goods of the party offending.

[Section III.] And be it enacted by the authority aforesaid, That every servant that shall faithfully serve four years or more, shall, at the expiration of their servitude, have a discharge, and shall be duly clothed with two complete suits of apparel, whereof one shall be new; and shall also be furnished with one new ax, one grubbing hoe and one weeding hoe, at the charge of their master or mistress.

And for prevention of servants quitting their master's service.

[Section IV.] Be it enacted by the authority aforesaid, That if any servant shall absent him or herself from the service of their master or owner for the space of one day or more, without leave first obtained for the same, every such servant shall, for every such day's absence, be obliged to serve five days after the expiration of his or her time, and shall further make such satisfaction to his or her master or owner for the damages and charges sustained by such absence as the respective county court shall see meet, who shall order as well the time to be served as other recompense for damages sustained.

And whoever shall apprehend or take up any runaway servant, and shall bring him or her to the sheriff of the county, such person shall, for every such servant, if taken up within ten miles of the servant's abode, receive ten shillings; and if ten miles or upwards, twenty shillings reward, of the said sheriff, who is hereby required to pay the same and forthwith to send notice to the master or owner, of whom he shall receive five shillings prison fees, upon the delivery of the said servant, together with all other disbursements and reasonable charges for and upon the same.

And to prevent the clandestine employing of other men's servants:

[Section V.] Be it enacted by the authority aforesaid, That whosoever shall conceal any servant of this province or territories or entertain him or her twenty-four hours, without his or her master's or owner's knowledge and consent, and shall not within the said time give an account thereof to some justice of the peace of the county, every such person shall forfeit twenty shillings for every day's concealment. And in case the said justice shall not, within twenty-four hours after complaint made to him, issue his warrant, directed to the next constable, for apprehending and seizing the said servant, and commit him or her to the custody of the sheriff of the county, such justice shall for every such offense forfeit five pounds. And the sheriff shall by the first opportunity, after he has received the said servant, send notice thereof to his or her master or owner; and the said sheriff, neglecting or omitting in any case to give notice to the master or owner of the servant being in his custody as aforesaid, shall forfeit five shillings for every day's neglect after an opportunity has offered, to be proved against him before the next county court and to be there adjudged.

And for the more effectual discouragement of servants embezzling their master's or owner's goods:

[Section VI.] Be it enacted by the authority aforesaid, That whosoever shall clandestinely deal or traffic with any servant, white or black, for any kind of goods or merchandise, without leave or order from his or her master or owner, plainly signified or appearing, shall forfeit treble the value of such goods to the owner; and the servant, if a white, shall make satisfaction to his or her master or owner by servitude, after the expiration of his or her time, to double the value of the said goods: And if the servant be black, he or she shall be severely whipped in the most public place of the township where the offense was committed.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Acts of Assembly passed February 14, 1729-30, Chapter 314; March 9, 1771, Chapter 625; and April 5, 1790, Chapter 1516.

CHAPTER L.

AN ACT FOR ERECTING AND ESTABLISHING A POST OFFICE.

Whereas the King and the late Queen Mary, by their royal letters patent under the great seal of England, bearing date the seventeenth of February which was in the year one thousand six hundred and ninety-and-one, did grant to Thomas Neale, Esquire, his executors, administrators and assigns, full power and authority to erect, settle and establish within the King's colonies and plantations in America, one or more office or offices for receiving and dispatching of letters and packets by post, and to receive, send and deliver the same, under such rates and sums of money as shall be agreeable to the rates established by act of parliament in England, or as the planters and others should agree to give on the first settlement, to have, hold and enjoy the same for the term of twenty-one years, with and under such powers, limitations and conditions as in and by the said letters patent may more fully appear:

And whereas the King's Postmaster-General of England, at the request, desire and nomination of the said Thomas Neale, hath deputed Andrew Hamilton, Esquire, for such time and under such conditions as in his deputation is for that purpose mentioned, to govern and manage the said General Post Office for and throughout all the King's plantations and colonies in the main land or continent of America and the islands adjacent thereto, as in and by the said deputation may more fully appear:

And whereas the said Andrew Hamilton hath, by and with the good liking and approbation of the Postmaster-General of England, made application to the proprietary and governor of this province and territories and freemen thereof convened in general assembly, that they would ascertain and establish such rates and sums of money upon letters and packets going by post as may be an effectual encouragement for carrying on and maintaining a general post, and the proprietary and gov-

ernor and freemen in general assembly met, considering that the maintaining of mutual and speedy correspondencies is very beneficial to the King and his subjects, and a great encouragement to the trade, and that the same is best carried on and managed by public post, as well for the preventing of inconveniences which heretofore have happened for want thereof, as for a certain, safe and speedy dispatch, carrying and recarrying of all letters and packets of letters by post to and from all parts and places within the continent of America and several parts of Europe, and that the well-ordering thereof is matter of general concernment and of great advantage, and being willing to encourage such a public benefit:

[Section I.] Have therefore enacted, and be it enacted by the said Proprietary and Governor of this Province and Territories, by and with the advice and consent of the freemen thereof in General Assembly met, and by the authority of the same, That there be from henceforth one general letter office erected and established within the town of Philadelphia, from whence all letters and packets whatsoever may be with speed and expedition sent into any part of the neighboring colonies and plantations on the mainland and continent of America, or into any other of the King's kingdoms or dominions, or unto any kingdom or country beyond the seas; at which said office all returns and answers may likewise be received: and that it shall and may be lawful to and for the master of the said office to demand, have, receive and take for the postage and conveyance of all such letters which he shall so convey, carry and send post as aforesaid, according to the several rates and sums of current money of this province hereafter mentioned: (That is to say) for the post of every single letter from Europe, the West Indies or other parts beyond sea, four pence; and all letters are to be accounted single, though they contain merchants' accounts, none exceeding one sheet of paper, bills of lading, gazettes, invoices or bills of exchange; and for each packet of letters from the places aforesaid, eight pence, and a packet shall be accounted three letters at the least; and for the post of every single letter from Boston or Rhode Island to Philadelphia, or from Philadelphia to Boston or Rhode Island, eighteen pence;

and so in proportion to the greatness and quantity of letters: and for the post of each single letter from Philadelphia to Piscataway and other parts to the eastward of Boston, and from Piscataway and the said eastern parts to Philadelphia, two shillings; and so in proportion as aforesaid: and for the post of each single letter from the post road in Connecticut Colony to Philadelphia, and from Philadelphia to Connecticut Colony anywhere on the post road, one shilling, and so in proportion as aforesaid: and for the post of each single letter from Philadelphia to New York, or from New York to Philadelphia, eight pence, and so in proportion as aforesaid: and for the post of each single letter to or from any place within eighty miles of Philadelphia, six pence, and so in proportion as aforesaid: and for the post of each single letter from Philadelphia to Maryland or Virginia, or from Virginia and Maryland to Philadelphia, eighteen pence, and so in proportion as aforesaid. Provided they come or go by post; but if by any private person delivered into the office, four pence: and if any letters or packets shall lie or remain in the office uncalled for, by the space of forty-eight hours, the postmaster then sending them forth to the respective houses of the persons to whom they are directed shall have and receive one penny more for each packet or letter.

Provided always, That all letters directed to or going from the proprietary and governor shall be free.

[Section II.] And be it further enacted by the authority aforesaid, That all and every such person and persons as shall be employed in the several stages within this province and territories shall and may pass and repass all and every ferry or ferries within this province and territories, at any time during the continuance of this act in force without paying any rate or sum of money, either for his or their own, or his or their horses' passage or passages; and if any ferrymen or ferrymen or other person or persons interested in any such ferry or ferries within this province or territories, shall at any time neglect, refuse or delay the conveying over his or their ferry or ferries any such person or persons employed as aforesaid in the execution of their respective employment or employments, or his or their horse or horses, he shall for every such offense forfeit the sum of five

pounds, to be sued and recovered in any court of record within this province by bill, plaint or information, wherein no escoin, protection or wager of the law shall be allowed—one-half of the said forfeiture towards the support of the government of this province and territories, and the other half to the master of the said general letter office who shall sue and prosecute for the same.

And whereas, upon the arrival of ships into the several parts of this province, many letters directed to several merchants and others have been detained long to the great damage of the merchants in want of that speedy advice which they might have had if the same had forthwith been dispatched; and sometimes such letters have been delivered by the master or passengers of such ships to ignorant and loose hands that understand not the way and means of speedy conveyance and delivery of letters, whereby great prejudice hath accrued to the affairs of merchants and others, as well by the miscarriage of many letters as many times by opening of the same, to the discovery of the correspondencies and secrets of merchants:

[Section III.] Be it therefore enacted by the authority aforesaid, That all letters and packets of letters that by any master of any ship or vessel shall or may be brought to any port within this province, shall by such masters be forthwith delivered to the said master of the general letter office for the time being, his servants or agents, by him or them to be delivered according to the several and respective directions of the same; and in default thereof every such master as aforesaid, offending in the premises, shall forfeit the sum of twenty shillings, to be recovered in such manner and to such uses as aforesaid.

And for their respective encouragement in the observance hereof:

[Section IV.] Be it also enacted, That the said master of the said office, his agents or servants, shall pay to every master or masters of any such ship or ships, vessel or vessels so delivering in letters as aforesaid, one penny for every such letter or letters, packet or packets, excepting always from this act such letters of merchants and masters, owners of any such ship or any part of the cargo, as concern the said ship or cargo thereof, or shall

be sent by persons employed by them for carriage of such letters, or by any messenger or messengers sent on purpose for or concerning the private affair of any person or persons, or by any private friend or friends to his, her or their friend or friends within the said province or territories thereof.

[Section V.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever other than the said master of the general letter office aforesaid, his agents or servants, shall presume to carry, recarry or deliver letters for hire (other than as before excepted), or set up or employ any foot post, horse post, packet boat or conveyance whatsoever, for carrying, conveying or recarrying any letters or packets by sea or land, upon pain of forfeiting the sum of forty pounds current money of this province, for every several offense against the tenor of this present act, to be sued and recovered in such manner and to such uses as aforesaid.

Provided, That this act or anything therein contained shall continue in force no longer than seven years from and after the publication thereof, anything therein contained to the contrary thereof in anywise notwithstanding.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6. See Appendix I, Section II; expired and supplied by an Act of Parliament.

CHAPTER LI.

AN ACT FOR THE ASSIZE OF BREAD.

For the better regulation of bakers, and the assize of bread:

[Section 1.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That henceforth every baker who makes any bread for sale shall have a distinct mark to be set on all the bread he

shall bake, and shall make it of the true assize hereafter expressed: (That is to say) when wheat is ordinarily sold for money at any of these several rates hereafter mentioned, the several sorts of bread shall be respectively, according to the following table, by Troy weight:

Price of wheat per bushel. s. d.	Penny white bread.		Penny wheaten bread.		Penny household bread.	
	oz.	qr.	oz.	qr.	oz.	qr.
3 0	10	0	15	2	23	0
3 6	9	1	14	0	21	0
4 0	8	2	12	3	19	0
4 6	7	3	12	0	17	0
5 0	6	3	11	1	16	0
5 6	6	0	10	2	14	3
6 0	5	2	9	3	13	1
6 6	5	0	9	1	12	0

and so proportionably, under the penalty of forfeiting all such bread as shall not be of the several assizes before mentioned, to the use of the poor where the offense is committed, and otherwise, as is hereafter expressed. And that each baker shall bake but three sorts of bread, viz., white, wheaten and household, and no more; and the loaves shall be a penny loaf or roll, a five-penny loaf, and a ten-penny loaf; and that if any of these exceed the assize in fineness or weight, it shall be equally seizable as if it were under the fineness or weight. And each baker of soft bread shall be allowed six pence on the bushel above the assize: (That is to say) when wheat is at five shillings per bushel, they shall make their bread as if the wheat were at five shillings and six pence: as wheat being five shillings per bushel, the penny white bread shall weigh six ounces, the wheaten ten ounces and a half, and the household fourteen ounces and three-quarters, and so proportionably, as if wheat were sold at five shillings and six pence.

And for the better execution of this present law:

[Section II.] Be it further enacted, That there shall be in every market-town and in all other towns needful, one person commissionated by the proprietary and governor to be clerk of the market for each market, who shall be attested duly to per-

form his office therein. All which officers are hereby authorized to enter into all houses, either with a constable or without, where they shall suspect or be informed of any bread baked for sale, as also to weigh all such bread as often as they shall see cause, and seize all such as they shall find deficient; as also to weigh all butter made up for sale, or brought into or being in the town or market to be sold by weight, which, if found light a second time; once after notice is given, shall be forfeited in like manner; as also all bread, made for sale, not being duly marked as aforesaid: of all which forfeitures the said officers shall have one-third part for his trouble; the other two-thirds to the poor as aforesaid.

And for the more effectual prevention of fraud herein:

[Section III.] Be it further enacted by the authority aforesaid, That all persons within this province and territories who bake any bread for sale, shall at all times hereafter have all their bread that they shall bake, either for sale or to spend in their families, made of the due assize, marked, and yielded to trial of the said officer, as is directed in this law, under the penalty of forfeiting all such bread whatsoever as aforesaid.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6. See Appendix I. Section II, repealed by the Acts of Assembly, passed March 11, 1751-52, Chapter 394; March 14, 1761, Chapter 460; March 21, 1772, Chapter 641; and March 18, 1775, Chapter 709.

CHAPTER LII.

AN ACT FOR PRIORITY OF PAYMENT TO THE INHABITANTS OF THIS GOVERNMENT.

Whereas many persons coming into this province and territories do bring with them considerable cargoes of goods and visible estates, by which means they acquire great and large

credits from the inhabitants of this government; and whereas it is often found upon the death of such persons that the aforesaid cargoes or effects are claimed by others their employers beyond the seas, by bills, bonds, judgments or otherwise made by the parties deceased, whereby it often falls out that the aforesaid inhabitants, who frequently furnish the aforesaid persons with goods suitable for returns to the places whence they came, are defrauded and deprived of their just debts contracted as aforesaid; for prevention whereof for the future:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That where debts are due by any person whatsoever to any of the inhabitants of this province or territories, in all courts within the same, priority of judgments and executions for debts due from any person whatsoever shall be allowed to the inhabitants of this government; and that no foreign debts shall be paid by any executor or administrator till the debts due to the inhabitants of this government be first secured and paid, on penalty to pay the creditors of this government as far as the assets in such executor's or administrator's hands would reach before such foreign debts were paid.

Provided, That the demand be made within one year after the debtor's death.

And for preventing any just creditor being defrauded or prejudiced hereby:

[Section II.] Be it enacted by the authority aforesaid, That all persons [sic] coming into this government in the quality of factors shall within two months after their arrival in this province or territories make entry, in the county court wherein he shall reside, of the name of the person adventuring by him and the value of the goods adventured; and that then every such adventurer, if the factor die, shall be admitted to plead equally with the inhabitants of this government, anything in this act before expressed to the contrary notwithstanding. But in case no such entry be made, all goods imported by any such factors shall be taken to be the proper estate of the possessor, so far only as to be liable to the payment of all debts due by such fac-

tors to the inhabitants of this province or territories, any act, law, custom or usage to the contrary hereof in anywise notwithstanding.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed February 28, 1710-11, Chapter 176.

CHAPTER LIII.

AN ACT FOR THE REGULATING OF STREETS AND WATER COURSES IN THE CITIES AND TOWNS OF THIS GOVERNMENT.

Forasmuch as the ornament of towns and conveniency and health of the inhabitants so much depend upon the due regulation of streets and landing places, and that the said streets and landing places and water courses may be effectually regulated and repaired:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That it shall and may be lawful for the governor, for the time being, with four of his council, from time to time to nominate and appoint such and so many as he and they shall think needful of the substantial inhabitants of the said towns respectively, so often as occasion shall be, to regulate the said streets and water courses and to order the pitching, paving and graveling thereof, as also the clearing of docks where such may be, and repairing landing places and bridges in the said towns; which persons so appointed or the major part of them are hereby empowered to agree with and employ workmen for performing the same from time to time.

Provided, That all water courses under ground in such towns, as aforesaid, shall be arched and laid with brick or stone: and for defraying the charge of pitching, paving, graveling and regulation of the said streets, and scouring and cleansing the

docks, each inhabitant concerned shall pay towards the same in proportion to the number of feet of his, her or their lots or landings adjoining on each or either side of the said streets or docks; and for defraying the charge of repairing landing places, bridges, making common shores and paving, pitching, graveling and regulating any part of the streets, or scouring and cleansing any part of the docks belonging to the public, each inhabitant in the said respective town or place shall pay his, her and [sic] their proportional rates according to their estates in each town.

And for the better regulating and defraying the said charges:

[Section II.] Be it enacted by the authority aforesaid, That it shall be lawful to and for the said persons so to be appointed as aforesaid, or the major part of them, with the advice and assistance of the justices of the peace of the respective counties, or at least two of them, who reside in or near the said respective towns, where and as often as occasion shall require, to calculate and compute the said charges, and thereupon with the assent of the governor and four of the council, equally to lay rates or assessments for levying the same upon the inhabitants of their towns and cities respectively; and the same being so rated, the said assessors shall forthwith appoint collectors and receivers thereof, and in case of non-payment of any sum or sums of money by virtue of this act to be levied, it shall be lawful for any such collector by virtue of a warrant under the hand and seal of any justice of the peace for the county where such non-payment is or shall be (who by virtue of this act are [sic] authorized and required to grant such warrant) to levy the same by distress and sale of such person's or persons' goods or other estates, returning the overplus (if any be) to the owners, after such sum assessed or distrained for, with all charges, is deducted.

[Section III.] And be it further enacted by the authority aforesaid, That every owner or inhabitant of any and every house in Philadelphia, Newcastle and Chester shall plant one or more tree or trees, viz., pines, unbearing mulberries, water poplars, lime or other shady and wholesome trees before the door of his, her or their house and houses, not exceeding eight feet from

the front of the house and preserve the same, to the end that the said towns may be well shaded from the violence of the sun in the heat of summer and thereby be rendered more healthy.

Passed November 27, 1700. This act is said by Weiss and Brockden, Galloway, Dallas and Smith to be supplied by an Act of 10 Queen Anne, of June 12, 1712, which Dallas more specifically indicates (in a footnote) as his Chapter 186. The latter, our Chapter 186, applies only to Philadelphia, and does not touch upon the subject of the third section of this act.

It does not appear to have been submitted to the consideration of the Crown in 1705 (see Appendix I, Section II), and in the editions of 1714, 1728 and 1742, it is marked "repealed." The minutes of the Assembly are missing from October 27, 1701, to May 24, 1704, and it is probable that this act was repealed by a resolution of the Assembly passed within that period, as was done on October 17, 1701, in the cases of Chapters 76 and 77.

CHAPTER LIV.

AN ACT FOR PREVENTING ACCIDENTS THAT MAY HAPPEN BY FIRE IN THE TOWNS OF BRISTOL (LATELY CALLED BUCKINGHAM), PHILADELPHIA, GERMANTOWN, DARBY, CHESTER, NEWCASTLE AND LEWES WITHIN THIS GOVERNMENT.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if within ten days after the publication hereof, any person or persons within any of the said towns set on fire their chimneys to cleanse them, or shall suffer them or any of them to be so foul as to take fire and flame out at the top, and be duly convicted thereof, by two credible persons of the neighborhood, before some one justice of the peace, such person or persons shall forfeit for every such offense forty shillings.

And for the further securing of houses and preventing of fire from destroying them in the said towns:

[Section II.] Be it enacted by the authority aforesaid, That every owner or tenant of every dwelling house within the said towns, shall within ten days after the publication hereof provide and keep in or by his or her house a swab, at least twelve or

fourteen feet long, as also two leather buckets at farthest within six months after the publication aforesaid, to be always ready against such accidents of fire, under the penalty of ten shillings for every respective neglect hereof, to be convicted as aforesaid.

[Section III.] And be it further enacted, That if any person shall presume to smoke tobacco in the streets of Philadelphia, either by day or night [he or she] shall forfeit for every such offense twelve pence, all which said fines shall be paid to the respective justices of each town for the use of the town, and are to be employed for buying and providing leather buckets and other instruments and engines against fires, for the public use of each town respectively.

[Section IV.] And be it further enacted by the authority aforesaid, That no person within the said town of Philadelphia, after six months next following the publication hereof, presume to keep in their houses, shops or warehouses more than six pounds of gunpowder at one time, unless it be forty perches distant from any dwelling house, under the penalty of ten pounds for every such offense, to the use aforesaid, to be convicted in manner above expressed.

Passed November 27, 1700; never submitted to the consideration of the Crown, having been supplied by the Act of Assembly, passed October 28, 1701, Chapter 105. See the Act of Assembly, passed October 28, 1701, Chapter 110.

CHAPTER LV.

AN ACT TO EMPOWER THE JUSTICES IN EACH COUNTY TO LAY OUT AND CONFIRM ALL ROADS, EXCEPT THE KING'S HIGHWAYS AND PUBLIC ROADS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all the King's highways or public roads within this province or counties annexed, shall be laid out by

order of the governor and council for the time being; which roads shall be recorded in the council book, with the courses thereof, as near as may be done.

[Section II.] And be it further enacted by the authority aforesaid, That the justices of each county court within this government shall, and by virtue of this act have power, as often as they find needful, in open court to order and appoint six sufficient housekeepers of the neighborhood inhabiting near the place where complaint is made for want of a road or cartway unto the public road, who shall view the said place; and if the said housekeepers, or any four of them, are satisfied that there is occasion for a road or cartway to be laid out, according to the complainant's or complainants' desire, then they shall and may lay out the same, in and through such convenient places as they shall think may be least to the damage or inconveniency of the neighbors or parties concerned, and least injurious to the settlements thereabouts; and of such breadth as the justices shall order and appoint, so that it exceed not fifty feet; and shall make return thereof under their hands to the next county court after it is laid out; and if then and there the justices approve the same, it shall at the same court be entered upon record, and from thenceforth be taken, deemed and allowed to be a lawful road or cartway from that time forwards.

Provided, That no such road shall be carried through any man's improved lands but where there is a necessity for the same; and where that appears, the respective county courts shall appoint six indifferent men to view and adjudge the value of so much of such improved lands as shall be taken up for the use aforesaid, and the value thereof shall be paid to the owner of the said land out of the respective county stock.

And to prevent any difference that may arise among neighbors about roads or cartways laid out by order of the governor and council, or any of the county courts in this government, and which are or shall be entered upon record, either before or after the making and publishing of this act:

[Section III.] Be it enacted by the authority aforesaid, That all such roads and cartways as before mentioned, shall be taken, deemed and allowed to be free, open and lawful roads

and cartways, from the time they are so laid out and recorded as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall presume to stop or hinder any of the said highways or other roads heretofore laid out, or hereafter to be laid out and allowed of as aforesaid, and shall commit any nuisance therein, by felling of trees, making fences or any other way, and do not remove the same forthwith, such person or persons shall be fined in the sum of five pounds, to be levied by distress and sale of the offender's goods and chattels, to be employed by the county court for the clearing and removing of the said nuisances; and the remainder thereof shall be employed by the said court in repairing and clearing other roads within the township where the offense was committed, any law, custom or usage to the contrary hereof in anywise notwithstanding.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed November 27, 1700, Chapter 57; February 20, 1735-36, Chapter 342; and February 8, 1785, Chapter 1126; repealed by the Act of Assembly passed April 6, 1802, P. L. 197.

CHAPTER LVI.

AN ACT FOR REGULATING AND MAINTAINING OF FENCES.

For preventing all disputes and differences that may arise through the neglect or insufficiency of fences in this province and counties annexed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all corn fields and grounds kept for inclosures within the said province and counties annexed, shall be

well fenced with fence[s] at least five feet high, of sufficient rail or logs, and close at the bottom; and whosoever, not having their grounds inclosed with such sufficient fence[s] as aforesaid, shall hurt, kill or do damage to any horse, kine, sheep, hogs, or goats, of any other person, by hunting or driving them out of or from the said grounds, shall be liable to make good all damages sustained thereby to the owner of the said cattle.

Provided, That all sorts of swine going at large, contrary to the intent of an act made and passed this present sessions, entitled "An act for restraining of Swine from running at large," shall not fall or be deemed within the construction of this act. But if any horse, kine, sheep, hogs or goats, or any kind of cattle shall break into any man's inclosure, the fence being of the aforesaid height and sufficiency, and by the view of two persons for that purpose appointed by the county court found and approved to be such, then the owner of such cattle shall be liable to make good all damages to the owner of the inclosure; for the first offense single damages only, and ever after double the damage sustained. And all persons having any unruly horses, mares or cattle, that are not to be kept off by such fences as aforesaid, are ordered and shall be obliged to take effectual care to restrain the same from trespassing on their neighbors' inclosures.

And for the better ascertaining and regulating of partition-fences:

[Section II.] Be it further enacted by the authority aforesaid, That where any neighbors shall improve lands adjacent to each other or where any person shall inclose any land adjoining to another's land already fenced in, so that any part of the first person's fence becomes the partition-fence between them, in both these cases the charge of such division-fence (so far as inclosed on both sides) shall be equally borne and maintained by both parties. To which end, and the others in this act mentioned, each county court within this province shall nominate, and is hereby empowered and required to nominate and appoint, so many honest and able men as they shall think fit, for each county respectively, to view all such fence and fences about which any difference may happen or arise; and

that the aforesaid persons, in each county respectively, shall be the sole judges of the charge to be borne by the delinquent, or by both or either party, and of the sufficiency of all fences, whether partition-fences or others; and where they judge any fence to be insufficient, they shall give notice thereof to the owners or possessors; and if any one of the said owners or possessors, upon the request of the other, and due notice given by the said viewers, shall refuse to make or repair the said fence or fences, or to pay the moiety of the charge of any fence before made (being a division-fence) within ten days after notice given, that then, upon proof thereof before two justices of the peace of the respective county, it shall be lawful for the said justices to order the person aggrieved and suffering thereby to repair the said fence or fences, who shall be reimbursed his cost and charges from the person so refusing to make good the said partition-fence or fences; and that the said cost and charges shall be levied upon the offender's goods and chattels, by warrant from the said justices, by distress and sale thereof, the overplus (if any be) to be returned to the party offending.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; Section I, repealed by the Act of Assembly, passed April 4, 1889, P. L. 27; Section II, supplied by the act of March 11, 1842, P. L. 62; and see the acts passed January 12, 1705-6, Chapter 158; (the two acts of) February 24, 1721-22, Chapters 241 and 242; (the two acts of) May 10, 1729, Chapters 301 and 303; March 4, 1763, Chapter 490; April 15, 1782, Chapter 982; March 27, 1784, Chapter 1089; March 7, 1800, Chapter 2120; April 1, 1805, P. L. 194; April 13, 1807, P. L. 286; March 28, 1808, P. L. 163; (the two acts of) March 20, 1810, P. L. 160, 161; February 25, 1814, P. L. 66; March 28, 1820, P. L. 171; March 3, 1847, P. L. 199; April 3, 1851, P. L. 320; April 14, 1851, P. L. 612; May 2, 1853, P. L. 667; April 24, 1857, P. L. 309; March 11, 1862, P. L. 109; April 11, 1862, P. L. 496; March 22, 1865, P. L. 538; March 23, 1865, P. L. 42 (sic); February 28, 1868, P. L. 236; March 23, 1868, P. L. 424; March 28, 1868, P. L. 514; April 1, 1868, P. L. 570; April 9, 1868, P. L. 779; April 13, 1868, P. L. 1022; April 17, 1869, P. L. 1125; April 13, 1870, P. L. 1145; May 6, 1870, P. L. 1303; May 25, 1871, P. L. 1137; May 29, 1871, P. L. 1281; April 10, 1873, P. L. 665; June 23, 1885, P. L. 142 (declared unconstitutional, Frost vs. Cherry, 122 Pa. R. 417); May 23, 1887, P. L. 167; May 23, 1891, P. L. 108; and May 31, 1893, P. L. 185.

CHAPTER LVII.

AN ACT FOR THE ERECTING OF BRIDGES AND MAINTAINING HIGHWAYS.

For the greater conveniency and ease of traveling in and through this province and counties annexed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That within twelve months after the rising of this general assembly, bridges shall be built and maintained over all small creeks and rivulets where the respective county courts shall see cause, from the Falls of Delaware to the utmost parts of Sussex county, on the King's road, ten feet broad, with rails on each side; which county courts with the concurrence of the grand jury shall agree with and appoint some person or persons to build such bridges in their respective counties, who shall be paid for the same out of the respective county stocks. And where any creek is the bounds or limits of two counties, the charge of a bridge over such creek shall be equally paid by each of the said counties: And to that end it shall be lawful for the governor and council to appoint and agree with workmen to build such bridges as aforesaid; and when built to certify the same, with the charges thereof, to each of the said county courts respectively to be held next after such bridges are finished; upon which the said courts shall forthwith order their county treasurer to pay such undertaker or undertakers their respective county moieties for the same.

[Section II.] And be it further enacted by the authority aforesaid, That all trees, stumps of trees and other incumbrances that lie in or cross any highways, shall be cleared; and all passages in and out of all creeks in the King's road, and all passages in and out of all other creeks, runs and branches where other roads are or shall be established, shall be made safe and easy both for horse and cart: and to that end, each respective county court shall divide their county into as many precincts as

they shall think fit, and shall, every Seventh month yearly, nominate and appoint one overseer of the highways over every such precinct, under the penalty of ten pounds. And every such overseer shall summon all the inhabitants of his respective precinct, as from time to time he shall see occasion, upon the penalty of five pounds, to come to such place or places as he shall appoint, and be there ready at or before the sun be one hour high, and continue to work thereat till within one hour of sunset (mealtimes excepted) upon the penalty of twenty shillings for each willful absence or neglect; in case of non-payment, to be levied by warrant from the justices at the next county court (directed to such person as the said court shall order and appoint) by distress and sale of goods, which distress shall be returned to the next court ensuing, to the benefit of that precinct towards the defraying of the charge of the highways and bridges therein.

Provided always, That the said overseer shall give each of the inhabitants six days' notice before they are to go out as aforesaid. And if any public road now is or hereafter shall be laid out by authority over any mill-race, which was cut before such road was laid out, in such case, if it be the King's road, there shall be a cart-bridge built and maintained over the said mill-race at the charge of the county in manner aforesaid; and if it be any other than the King's road, then the overseer of the precinct wherein it is shall order the making and maintaining such bridge: but if any mill-race be cut through any public road which was by authority laid out before the cutting thereof, then the owner or owners of the said mill-race shall build such bridge or bridges as aforesaid, at his, her or their proper cost and charges.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed November 27, 1700, Chapter 55; January 12, 1705-6; Chapter 156; March 27, 1712-13, Chapter 198; August 15, 1732, Chapter 330; February 20, 1735-36, Chapter 342; February 17, 1762, Chapter 479; March 4, 1763, Chapter 495; May 18, 1765, Chapter 526; and March 21, 1772, Chapter 653; repealed by the Act of Assembly, passed April 6, 1802, P. L. 178.

CHAPTER LVIII.

AN ACT AGAINST WEIRS CROSS CREEKS AND RIVERS.

To the end that all persons inhabiting upon or near any creeks or rivers in this province or counties annexed, may enjoy all privileges and advantages that from them are to be reaped:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That whosoever shall make a weir or weirs from one side of any creek or river in this province or counties annexed, to the other side thereof, shall for every such offense pay ten shillings, and the weir or weirs shall be destroyed.

Provided, That this act shall not extend to mill-dams or races, nor to such as make weirs on their own lands, so as they shall not be injurious to others.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section I; repealed by the Act of Assembly, passed March 20, 1810, P. L. 188.

CHAPTER LIX.

AN ACT AGAINST UNSEASONABLE FIRING OF WOODS.

For the prevention of dangers and damages that may ensue upon firing of woods at unseasonable times of the year:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That whosoever shall presume to set on fire any

woods, lands or marshes in this province or territories, before the first day of the First month yearly, or after the first day of the Third month, shall make good all damages that shall thereby happen to any of the inhabitants thereof.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1706-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed March 27, 1712-13, Chapter 198; March 29, 1734-35, Chapter 388; April 18, 1794, Chapter 1743.

CHAPTER LX.

AN ACT ABOUT ERECTING AND REGULATING THE PRICES OF FERRIES.

Whereas by reason of the great resort of people to and from the town of Philadelphia over Neshaminy Creek, there is occasion of a ferry to be erected for the same:

[Section I.] Be it therefore enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging [in General Assembly met], and by the authority of the same, That there shall be a ferry boat for men and horses, built and kept at the most convenient place on the said creek, and in case any the inhabitants on or near the said creek refuse to build a boat and keep a ferry there, it shall be lawful for any other person, that will build a house to have one acre of unimproved land on the said creek, paying yearly so much as the county court shall adjudge reasonable to the owner of such lands.

[Section II.] And be it further enacted by the authority aforesaid, That between the Falls of Delaware and the town of Newcastle, the rates and prices of ferries shall be as followeth: (That is to say) over Delaware River at or near the Falls or near Burlington, three pence for every passenger; for oxen, bullocks, cows, heifers, horses and mares, four pence per head; for sheep, and hogs, one penny per head; and for every man and horse,

laden or unladen, ten pence; over Neshaminy creek, for every passenger, two pence; and for man and horse, five pence: over Schuylkill, for oxen, bullocks, cows, heifers, horses and mares per head, two pence; for sheep and hogs, one halfpenny; for a single passenger, two pence; and for all passengers above one, one penny a piece; for man and horse, laden or unladen, three pence: over Brandywine and Christine [Christiana], for every passenger, two pence; and for man and horse, laden or unladen, five pence; and for cattle, as over Schuylkill.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed June 7, 1712, Chapters 190 and 191.

CHAPTER LXI.

AN ACT FOR THE TRIAL OF NEGROES.

Whereas some difficulties have arisen within this province and territories about the manner of trial and punishment of negroes committing murder, manslaughter, buggery, burglary, rapes, attempts of rapes and other high and heinous enormities and capital offenses, for remedy whereof and for the speedy trial and condign punishment of such negro or negroes offending as aforesaid:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That from and after the publication of this present act, it shall and may be lawful for two justices of the peace of this province or territories, who shall be particularly commissioned by the proprietary and governor for that service within the respective counties thereof, and six of the most substantial freeholders of the neighborhood, to hear, examine, try and determine all such offenses committed by any negro or ne-

groes within this government, which said freeholders shall be by warrant, under the hands and seals of the respective justices commissionated as aforesaid, directed to the next constable, summoned to appear at such time and place as the said justices shall therein appoint; which freeholders the said justices shall solemnly attest well and truly to give their assistance and judgment upon the trial of such negro or negroes, who shall hold a court for the hearing, trying, judging, determining and convicting of such negro or negroes as shall be before them charged or accused of committing any murder, manslaughter, buggery, burglary, rapes, attempts of rapes or any other high or heinous offenses committed, acted or done in any the respective counties within this province or territories as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That upon the sitting of such court by the said justices and freeholders as aforesaid, it shall and may be lawful for the said justices and freeholders to examine, try, hear, judge, determine, convict, acquit or condemn according to evidence and full proof, any negro or negroes for any the crimes or offenses aforesaid, or any other high or capital offense; and upon due proof and conviction to pronounce such judgment or sentence in the premises as is agreeable to law and the nature of the offense, or otherwise to acquit, free and discharge such negro or negroes in case the evidence shall not be sufficient for a conviction therein.

[Section III.] And be it further enacted by the authority aforesaid, That where such negro or negroes shall be convict, and judgment or sentence shall be pronounced by the respective justices and freeholders as aforesaid, and a warrant by them signed and sealed, to be directed to the High Sheriff of the county where the fact was committed, for the execution of such negro or negroes, the same shall be duly executed or caused to be duly executed by the said sheriff, on pain of being disabled to act any longer in that post or office; and if any of the said justices or freeholders neglect or delay to do their duty herein, they shall be liable to be fined by the governor and council, in any sum not exceeding five pounds, to be levied by distress and sale of the goods and chattels of such justices or freeholders so refusing as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That if any negro or negroes within this government shall commit a rape or ravishment upon any white woman or maid, or shall commit murder, buggery or burglary, they shall be tried as aforesaid, and shall be punished by death; and if any negro shall attempt a rape or ravishment on any white woman or maid, they shall be tried in manner aforesaid, and shall be punished by castration; and if any negro shall be convicted of robbing, stealing or fraudulently taking or carrying away any goods living or dead, the master or owner of such negro shall make satisfaction to the party wronged, and pay all costs, to be levied by distress and sale of the said master's or owner's goods and chattels, and the negro to be whipped as the said justices and freeholders shall adjudge and appoint.

[Section V.] And be it further enacted by the authority aforesaid, That if any negro shall presume to carry any guns, swords, pistols, fowling-pieces, clubs or other arms or weapons whatsoever, without his master's special license for the same, and be convicted thereof before a magistrate, he shall be whipped with twenty-one lashes on his bare back.

[Section VI.] And be it further enacted by the authority aforesaid (and for the preventing of negroes meeting and companying together upon First days or any other day or time in great companies or numbers), That if any person or persons give notice thereof, and to whom they respectively belong, to any justice of the peace within this government, the same being above the number of four in company and upon no lawful business of their masters or owners, such negro or negroes so offending shall be publicly whipped at the discretion of one justice of the peace, not exceeding thirty-nine lashes.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 143.

CHAPTER LXII.

AN ACT TO PREVENT SICKLY VESSELS COMING INTO THIS GOVERNMENT.

Whereas it hath been found by sad experience that the coming and arriving of unhealthy vessels at the ports and towns of this province and territories, and the landing of their passengers and goods before they have lain some time to be purified, hath proved very detrimental to the health of the inhabitants of this province:

[Section I.] Be it therefore enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That from and after the publication hereof, no unhealthy or sickly vessels coming from any unhealthy or sickly place whatsoever, shall come nearer than one mile to any of the towns or ports of this province or territories, without bills of health; nor shall [any person] presume to bring to the shore such vessels, nor to land such passengers or their goods at any the said ports or places, until such time as they shall obtain a license; for their landing at Philadelphia, from the Governor and council; or from any two justices of the peace of any other port or county of this province or territories, under the penalty of one hundred pounds for every such unhealthy vessel so landing as aforesaid, to the use of the proprietary and governor. And that suitable provision be ordered by the governor and council for their reception, if they shall be permitted to land or come on shore.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the provisions of the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed February 3, 1742-43, Chapter 357; repealed by the Acts of Assembly, passed January 22, 1774, Chapter 691, and April 22, 1794, Chapter 1759.

CHAPTER LXIII.

AN ACT FOR THE SITTING OF ORPHANS' COURTS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the justices of the respective county courts shall sit twice every year to inspect and take care of the estate, usage and employments of orphans, which shall be called the Orphans' Courts, and shall sit in each county within this province and territories in the First and Seventh months yearly, after the business of the respective county courts shall be ended.

Passed November 27, 1700; repealed by the Acts of Assembly, passed October 28, 1701, Chapters 105 and 106, and supplied by the Act of March 27, 1712-13, Chapter 197.

CHAPTER LXIV.

AN ACT REQUIRING ALL MASTERS AND COMMANDERS OF ALL SHIPS AND VESSELS TO MAKE REPORT AT THE TOWN OF NEWCASTLE, THAT ARE OR SHALL BE BOUND TO AND FROM THE SEA.

Whereas by a law of this province made the tenth day of the Twelfth month, one thousand six hundred and ninety-and-nine, entitled "An act for preventing frauds and regulating abuses in trade with this Province," &c., it was enacted that all masters and commanders of ships or other vessels bound to and from this province should make report to the collector or officers of the King's customs in the port of Newcastle, whence they came and whither they are bound, and that notwithstanding whereof, the said act hath not been observed, but several vessels have

since contemptuously passed by the said port without compliance with the said act, because no penalty was therein provided against such as offended therein; for preventing whereof for the future, and for the preventing of frauds and abuses in trade:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all masters and commanders of all ships and vessels trading to and from this province or any part thereof as aforesaid, shall be obliged and are hereby strictly enjoined and required to make report to the collector or officer of the King's customs in the said port of Newcastle aforesaid, whence such ship or vessel came and whither she is bound. And that all masters of ships or vessels of the burden of one hundred tons or upwards, that shall not make such report shall forfeit and pay the sum of ten pounds silver money of this province; and that all masters or commanders of ships or vessels under the burden of one hundred tons, shall forfeit and pay the sum of five pounds like money, one-third part thereof to the proprietary and governor, and the other two-thirds part to be paid and disposed of as the county court in and for the town and county of Newcastle, shall direct and appoint for the use of the said town of Newcastle; the same to be recovered in any court of record within this province or territories, by action of debt, bill, plaint, information or otherwise, wherein no essoin, protection or wager of law shall be allowed.

Provided always, That the said collector, officer or their deputies be there to take such report from such masters or commanders as aforesaid. Nevertheless it is hereby intended that this act shall not extend to strangers inward bound that have not before their arrival had due notice of this law, anything herein contained to the contrary notwithstanding.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, especially paragraph 54.

CHAPTER LXV.

AN ACT FOR THE LEVYING OF FINES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That whatsoever fine or fines, penalty or penalties, forfeiture or forfeitures are laid or imposed upon any person or persons, in or by any act or law of this government, and not express application made thereof, in every such case the same shall be levied and paid to the proprietary and governor and his heirs; and shall be levied on the party or parties forfeiting or liable to pay the same, by warrant under the hand and seal of one or more justice or justices of the peace in this province or territories before whom the offender shall be convicted or the fine recovered; and shall be directed to the sheriff of the county where the party or parties offending shall dwell or be resident, who shall execute the same upon the goods and chattels of the said party or parties accordingly, and make his due return thereof into the treasurer's office of this province.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed May 28, 1715, Chapter 206.

CHAPTER LXVI.

THE LAW ABOUT DEPARTERS OUT OF THIS PROVINCE.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Counties annexed in General Assembly met, and by the authority of the same, That every person intending to depart or leave this province and territories thereof shall publish his or

her intention in writing affixed on the door of the county court where he or she inhabits, thirty days before his or her departure, and shall have a pass under the county seal. And if any master of ship or vessel shall presume to convey or transport any person out of this province or territories thereof without such pass, such master shall pay all damages that shall happen thereby; and that all masters of vessels coming into this province shall give three hundred pounds bond to the naval officer that he shall observe the laws of this government, and upon refusal thereof to forfeit twenty pounds current money of this province and territories to the proprietary and governor thereof.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 140.

CHAPTER LXVII.

AN ACT AGAINST THE MIXING AND ADULTERATING STRONG LIQUORS.

For the preventing of fraud in mixing and adulterating rum, brandy or such like spirits:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person within this province or territories thereof, shall, from and after the publication hereof, presume to sell rum, brandy or such like spirits that shall be mixed or adulterated with water or any other liquor by the judgment of two credible evidences of that county where the same shall be sold, being convicted thereof, every such person shall for every such offense forfeit the rum, brandy, spirits, or other liquors so sold, and pay treble the value thereof: one-half shall go to the governor and the other half to him that shall discover and prosecute the same.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 147.

CHAPTER LXVIII.

THE LAW AGAINST SCOLDING.

For bridling the exorbitance of the tongue:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereof in General Assembly met, and by the authority of the same, That if any persons should be clamorous with their tongues, upon complaint and full proof thereof before a justice of the peace, such person or persons shall be fined five shillings or be imprisoned five days at hard labor, or be gagged and stand in some public place, at the discretion of the magistrate; and that the fines incurred by such offense shall go to the use of the poor where the offense shall be committed.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER LXIX.

THE LAW ABOUT KILLING OF WOLVES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereof in General Assembly met, and by the authority of the same, That if any person within this province and territories thereof shall kill a dog-wolf he shall have ten shillings, and if a bitch-wolf fifteen shillings, to be paid out of the stock of the county, provided such person brings the wolf's head to one of the justices of the peace of that county, who is to cause the ears and tongue of the said wolf to be cut off; and that the benefit of this law do and shall extend to Indians as well as others.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 146.

CHAPTER LXX.

AN ACT CONCERNING BILLS OF EXCHANGE.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person or persons within this province and territories shall draw or indorse any bill or bills of exchange upon any person or persons in England or other parts of Europe, and the same be returned back unpaid with a legal protest, the drawer thereof and all others concerned shall pay and discharge the contents of the said bill or bills, together with twenty pounds per cent advance for the damage thereof, and so proportionably for greater or less sums, in the same specie as the said bill or bills were drawn, or current money of this province equivalent to that [which] was first paid to the drawer or indorser.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, repealed by the Act of Assembly, passed March 30, 1821, P. L. 156.

CHAPTER LXXI.

AN ACT FOR THE REGULATING OF MONEY WEIGHTS AND FOR STAMPING THE SAME.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging in General Assembly met, and by the authority of the same, That no person within this government, from and after the publication hereof, shall be obliged to receive or take any money by any weights not made

of brass, regulated and stamped by the person or officer to be appointed for that purpose: which officer shall from time to time keep in his possession a true standard of brass Troy weights, according to the King's standard in England, by which all weights shall by him be truly and exactly regulated; and after such regulation he shall stamp or mark the same with his own stamp or mark, for which he shall take and receive one penny for every weight to be by him stamped or marked as aforesaid; which said officer shall have power once in three years to bring all or any person's weights to a new trial, and to alter and stamp the same as occasion shall require. And for the more speedy putting this law in execution, it shall and may be lawful for the proprietary and governor to commissionate a person to execute the same. And all persons receivers of money from any other person, shall receive the same in which end of the beam he shall think fit, if the payer be owner of the scales; and if the money turn the scale it shall be accounted payable.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II.

CHAPTER LXXII.

AN ACT APPOINTING THE RATE OF THE MONEY OR COIN WITHIN THIS PROVINCE AND TERRITORIES AND FOR PREVENTING THE CLIPPING OF THE SAME.

For the settling the rate and valuing the current coin within this province and territories, and prevention of clipping or diminishing the same:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the several coins or pieces of money shall pass and be current within this province and territories at the

several rates and prices in this act limited and appointed: (That is to say) every Peru piece of eight, not less than twelve penny-weight, and all Lion or Dog dollars, for six shillings; and all other pieces of eight, and dollars being fifteen pennyweight, for seven shillings; and for every pennyweight above fifteen shall be advanced four pence, and every pennyweight under fifteen shall be abated four pence; and all half-pieces and half-dollars proportionably; all double bits at twenty pence a piece; all single bits at ten pence a piece; and all half-bits at five pence a piece, any law, custom or usage to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That if any person or persons within this province or territories shall for lucre's sake clip, wash, round or file, or by any way whatsoever impair, diminish or falsify any the money or coins allowed to be current within this province and territories as aforesaid, every such person so offending, together with his or their accessaries, aiders and abettors, upon due proof and legal conviction, shall forfeit the sum of one hundred pounds, and [shall suffer] imprisonment at hard labor for the space of one whole year without bail or mainprise, two-thirds part of the said forfeiture to the proprietary and governor, and the other third part to the informer, to be recovered by plaint or action in the county court to be held for the county where such fact shall be committed.

Passed November 27, 1700; repealed by the Queen in Council, July 30, 1703. See Appendix I, Section I, and the Act of Assembly, passed January 12, 1705-6, Chapter 162.

CHAPTER LXXIII.

AN ACT FOR REGULATING WEIGHTS AND MEASURES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories thereunto belonging in General Assembly met,

and by the authority of the same, That in each county of this province and territories there shall be had and obtained, within two years after the making of this law, at the charge of each county (to be paid out of the county levies) standards of brass for weights and measures, according to the King's standards for the Exchequer; which standards shall remain with such officer in the counties aforesaid as shall be from time to time appointed by the governor with the advice of the council: and every weight according to its scantling, and every measure, as bushels, half-bushels, pecks, gallons, pottles, quarts and pints, shall be made just weights and measures and marked by him that shall keep the standards. And that no person within this province and territories shall presume to buy or sell by any weights or measures not sealed or marked in form aforesaid, and made just according to the standards aforesaid by the officers in whose possession the standards shall remain, on penalty of forfeiting five shillings to the prosecutor, being convicted by one justice of the peace of the unjustness of his weights or measures. And that once a year at least, the said officer, with the grand jury or the major part of them, and for want of the grand jury, with such as shall be allowed and appointed by the respective county courts aforesaid for assistance, shall try the weights and measures in the counties aforesaid; and those weights and measures as are defective, to be seized by the said officer and assistants; which said officer, for his fees for making each bushel, half-bushel and peck just measure, and marking the same that is large enough when brought to his hands, shall have ten pence; and for every lesser measure, three pence; for every yard three pence; for every hundred and half-hundred weight, being made just and marked, three pence; for every lesser weight, one penny. And if the weights and measures be made just before they be brought to him, then to have but half the fees aforesaid for marking the same. And if the said officer shall refuse to do anything that is enjoined by this law, for the fees appointed, and be duly convicted thereof, [he] shall forfeit five pounds to the use of the proprietary and governor.

[Section II.] Provided always, and it is hereby enacted, That the brass half-bushel now in the town of Philadelphia, and a

bushel and peck proportionable, and all lesser measures and weights coming from England, being duly sealed in London, or other measures agreeable therewith shall be accounted and allowed to be good by the aforesaid officers, until the said standards shall be had and obtained.

[Section III.] And be it further enacted by the authority aforesaid, That no person shall sell beer or ale by retail, but by beer-measure, according to the standard of England.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed January 12, 1705-6, Chapter 138; January 17, 1733-34, Chapter 332; April 5, 1781, Chapter 936; March 29, 1813, P. L. 259; March 10, 1818, P. L. 182; April 2, 1822, P. L. 186; February 17, 1827, P. L. 41; April 5, 1830, P. L. 195; April 15, 1834, P. L. 524; April 15, 1845, P. L. 443, and March 8, 1883, P. L. 6. See also I Dallas' Laws, 24, note, and the Third Report of the Commissioners for the Revision of the Civil Code, 1833, page 49.

CHAPTER LXXIV.

AN ACT TO PREVENT THE SALE OF ILL-TANNED LEATHER AND WORKING THE SAME INTO SHOES AND BOOTS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person or persons within this province and territories shall sell or expose to sale to any shoemaker any ill-wrought or tanned leather, before the officer or searcher for that purpose to be appointed by the governor, hath examined and marked the same with his own mark or seal, such person shall forfeit (being thereof legally convicted before two justices of the peace) all such leather as he shall so sell or expose to sale unmarked by the officer as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That if any shoemaker work or make up for sale any

shoes, boots or slippers of any such ill-wrought or tanned leather and unmarked by the officer as aforesaid, and [be] convicted thereof as aforesaid, he shall forfeit the same; and such officer, by warrant under the hand and seal of the said justices, may seize such ill-wrought or tanned leather as aforesaid, and the shoes, boots or slippers made thereof, and secure the same; and bring them to the next county court to be held for the county where the fact shall be committed, who shall condemn the same if they see cause or reason therefor, two-thirds part whereof shall go to the proprietary and governor and the other third part to the officer or informer.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed August 26, 1721, Chapter 247.

CHAPTER LXXV.

AN ACT FOR KEEPING A REGISTRY IN RELIGIOUS SOCIETIES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the registry now kept, or which shall hereafter be kept by any religious society, in their respective meeting-book or books, of any marriage, birth or burial within this province or territories thereof, shall be held good and authentic, and shall be allowed of upon all occasions whatsoever.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed March 31, 1837, P. L. 110 and March 17, 1838, P. L. 80.

CHAPTER LXXVI.

AN ACT FOR VIEWING PIPE-STAVES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That there be one person at least within every county within this province and territories to be appointed by the respective county courts, who shall have power to view or search all such pipe-staves as are to be transported and to be used for the making of tight-casks; which officer shall, upon such his view or search, cast aside all such of the said staves as shall not be merchantable, or shall have above five wormholes therein, and shall not exceed four feet and a half in length, and in breadth three inches and a half besides the sap, and in thickness half an inch, and which are not good and sufficient for use. And the said viewers or searchers, of the respective counties, upon request made, shall view and enter into a book, to be kept for that purpose, the number of such staves as he shall approve on and adjudge merchantable, and for whom he viewed the same. And if any person or persons shall put on board any ship or vessel any pipe-staves not viewed and approved on as aforesaid (unless transported for dry casks) he shall forfeit the whole quantity of staves or value thereof. And the searcher or viewer shall take and receive two shillings for every thousand by him viewed or searched as aforesaid, and the number of six score to be reckoned and deemed the hundred.

Passed November 27, 1700; repealed by resolution of the Assembly, October 17, 1701; and by the Act of Assembly, passed October 28, 1701, Chapter 105. See I Votes, 159; and the Act of Assembly, passed April 21, 1859, Chapter 439.

CHAPTER LXXVII.

AN ACT FOR THE PREVENTING OF SWINE RUNNING AT LARGE.

Whereas great and manifest damage has accrued to the inhabitants of this province by suffering of swine to run at large without rings or yokes:

[Section I.] Be it therefore enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That from and after the first day of the First month next, no swine shall go at large without sufficient rings in the noses and yokes on their necks, in any of the three counties of Bucks, Philadelphia or Chester, within eight miles distance of the river Delaware; or in the town of Newcastle or marsh adjoining; or in the town of Lewes, or on any of the town lands between the creek, or the eastermost branch of the creek, called Pegan Creek (though ringed and yoked), on the penalty of forfeiting all such swine, the one-half to the proprietary and governor, and the other half to such person upon whose land the swine shall be taken up, secured or killed, any law of this government to the contrary notwithstanding.

Passed November 27, 1700; repealed by resolution of the Assembly passed October 17, 1701, and by the Act of Assembly, passed October 28, 1701, Chapter 105. See I Votes, 159, and the Acts of Assembly, passed November 27, 1700, Chapter 56; and October 28, 1701, Chapter 111.

CHAPTER LXXVIII.

AN ACT THAT NO PUBLIC HOUSE OR INN WITHIN THIS GOVERNMENT BE KEPT WITHOUT LICENSE.

For preventing of disorder and the mischiefs that may happen by multiplicity of public houses of entertainment:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province

and Counties annexed in General Assembly met, and by the authority of the same, That no person or persons whatsoever, within this government, shall hereafter have or keep any public inn, tavern, alehouse, victualling house or other public house of entertainment, unless such person or persons shall first have license for the same from the proprietary and governor, his heirs, or his or their deputy or lieutenant-governor for the time being, under the penalty of five pounds. And that no person so licensed as aforesaid shall knowingly suffer any disorder or unlawful actions in such his, her or their house, under the penalty of forty shillings for the first offense, and for the second offense to be suppressed by the justices in the county court; and that no such innkeeper, taverner or person as aforesaid shall presume to continue such public house of entertainment of his own accord after such suppression, without new license as aforesaid, under the penalty of ten pounds, five pounds whereof to go to the proprietary and governor, and five pounds thereof to the use of the poor of the county where such offense shall be committed; and all such innkeepers or persons selling liquors shall keep good entertainment for man and horse, under the penalty of forfeiting forty shillings for the use aforesaid.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed February 28, 1710-11, Chapter 172.

CHAPTER LXXIX.

AN ACT FOR THE BETTER ASSESSING AND RAISING OF COUNTY LEVIES FOR THIS PRESENT YEAR, 1700.

Whereas by an act passed this present Assembly, entitled "An act for raising county levies,"¹ the freemen of this province and territories are empowered, at the time they choose assemblymen, to choose also six assessors to assist in levying

¹Chapter 32.

the rates and raising the said levies; and whereas in several counties there is occasion to raise a county levy before another assembly may be chosen:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the justices of the peace in each respective county, with the assistance of the grand jury thereof, shall by virtue hereof have power for this present year to make one such levy as the said act directs, to answer the ends therein expressed, and shall accordingly with all convenient speed make and raise one such levy in as full and ample manner, to all intents and purposes, as if such assessors had for this year been chosen, anything in the said act to the contrary in anywise notwithstanding.

Passed November 27, 1700; expired, and repealed by the Act of Assembly, passed October 28, 1701, Chapter 105.

CHAPTER LXXX.

AN ACT FOR THE ASCERTAINING THE DIMENSIONS OF CASK, AND FOR THE TRUE PACKING OF MEAT FOR TRANSPORTATION.

Whereas it is the interest of all governments to exercise truth and uprightness in all their trade and dealings, which many persons for their private interest too often violate: to the end therefore that the same may be observed in the traffic and commerce of this province and territories, and especially that the commodities generally exported to foreign markets may be good in respect to their quality, and complete in respect of their quantity; and to prevent differences about measures:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all tight cask for beer, ale, cider, pork, beef and oil and all such commodities, shall be made of good, sound,

well-seasoned white-oak timber, and shall contain as followeth, viz., the puncheon, eighty-four gallons; the hogshead, sixty-three gallons; the tierce forty-two gallons; the barrel, thirty-one gallons and a half; and half-barrels, sixteen gallons, wine measure, according to the practice of our neighboring colonies. And that all coopers set their marks on the said casks respectively, on the penalty of forfeiting the same.

And to prevent the exporting of unsound and unmerchantable beef and pork:

[Section II.] Be it enacted by the authority aforesaid, That no person, after the publication hereof, shall presume to ship any beef or pork before it be first viewed and packed or repacked by an officer or packer, to be for that purpose appointed; which shall, after the officer's view and approbation, be marked with the said officer's mark: and any person or persons that shall ship on board any vessel any beef or pork, in order to be transported, without the said officer's mark as aforesaid, he or they, for every such cask, shall forfeit and pay the sum of ten shillings. And the justices of the respective county courts within this government shall nominate and appoint such officer or packer as aforesaid, which officer shall have nine pence for the packing, pickling and heading of every barrel.

[Section III.] And be it further enacted by the authority aforesaid, That all biscuit and flour made for transportation, shall be well made and honestly and truly packed, for the encouragement of our trade and credit; that those who purchase the same may not be cheated or defrauded. And all such persons that make flour or biscuit for transportation shall set their several brand-marks on each cask before shipped, on the penalty of five shillings for every cask by them sold and unmarked as aforesaid. And if any bread or flour shall pass out of this province or territories false[ly] packed and the same happen to be returned, in all such cases the persons offending shall pay to the party wronged double damages for the same.

[Section IV.] And be it further enacted by the authority aforesaid, That every cooper, baker and bolter shall enter, or cause their respective brand-marks to be entered, in a book for that purpose, to be kept by the said officer or packer.

And for the better enabling coopers to comply with this act:
[Section V.] Be it enacted by the authority aforesaid, That all hogshead-staves shall be three feet and a half long, and three inches broad, clear of sap; barrel-staves, two feet and four inches long, and three inches broad, clear of sap; and that all hogsheads and barrel-staves that are not of the aforesaid dimensions shall be accounted not merchantable, but be reckoned two for one.

And that the tobacco made and raised in this government may be at least with equal reputation abroad with those of other colonies, it is necessary that the planters and makers thereof use honesty in the handling and faithfulness in the packing thereof:

[Section VI.] Be it therefore enacted by the authority aforesaid, That all tobacco-hogsheads shall be made of good seasoned timber, four feet long, or within an inch more or less, and thirty-two inches in the head, equal with the gauge of Maryland; four of which hogsheads shall be accounted a ton; and every cask in which tobacco is to be packed, shall be first tared and marked with the true tare thereof, by the planter or packer of such tobacco, under the penalty of twenty shillings, to be forfeited by the said planter to the person that may be wronged thereby.

Provided, That by reason of the difference often found between steelyards and scales, no person shall be liable to pay the penalty aforesaid, where the difference in one draught is not above five pounds weight. And for every tobacco-hogshead of the dimensions aforesaid, the buyers shall allow to the planter or seller five shillings current money of Pennsylvania.

[Section VII.] And be it further enacted by the authority aforesaid, That if any person after the publication hereof, willfully and fraudulently pack or cause to be packed into hogsheads (and offer to sale) any trash or seconds, or rotten or frost-bitten tobacco, or such as shall be altogether unmerchantable, otherwise than what shall appear upon the head or outsides of the said tobacco when packed, and the same be discovered and found out before it be removed from the place of sale, being duly convicted thereof, shall pay for every such hogshead so

packed forty shillings current money of this government, to the poor of the county where the offense shall be committed, any law, usage or custom to the contrary notwithstanding.

[Section VIII.] And be it further enacted by the authority aforesaid, That no bread or flour cask shall be made for transportation of larger dimensions than double the gauge of the wine-measure above mentioned, viz., the half-barrel not to exceed thirty-one gallons and [a] half; the barrel sixty-three gallons, and so proportionably.

Provided always, That any person may make casks as much less as they please to suit any market.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed March 27, 1712-13, Chapter 198 (Section VI); May 22, 1722, Chapter 260; August 18, 1727, Chapter 295; January 19, 1733-34, Chapter 332; March 7, 1745-46, Chapter 368; April 21, 1759, Chapter 439; April 22, 1761, Chapter 469; February 21, 1767, Chapter 548; April 5, 1781, Chapter 936; December 28, 1781, Chapter 958; March 12, 1789, Chapter 1395; September 12, 1789, Chapter 1433; September 24, 1789, Chapter 1440; April 5, 1790, Chapter 1512; and March 30, 1803, P. L. 573; repealed March 20, 1810, P. L. 188.

CHAPTER LXXXI.

AN ACT ABOUT CUTTING TIMBER TREES.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person or persons within this province or territories shall be convicted of cutting or felling any black-walnut trees upon another person's land, without leave, he shall forfeit to the owner thereof five pounds for every tree so felled and cut; and for other timber fifty shillings each tree; and for fire or underwood double the value thereof, to the use aforesaid.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; supplied by the Act of Assembly, passed March 29, 1824, P. L. 152.

CHAPTER LXXXII.

THE LAW AGAINST DRUNKENNESS AND HEALTHS-DRINKING.

For the discouragement and just punishment of drunkenness: [Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That every person disordering or abusing him or herself with drink unto drunkenness, and every person suffering such excess at their houses, and every person that shall drink healths which shall provoke people to excessive drinking, or that shall pledge the same, being legally convicted of any of the said crimes, shall for the first offense pay five shillings, or work five days in the House of Correction at hard labor, to be fed only with bread and water; and for the second offense and ever after ten shillings, or ten days' labor as aforesaid.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 126.

CHAPTER LXXXIII.

AN ACT FOR BAILING OF PRISONERS AND ABOUT IMPRISONMENT.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all prisoners shall be bailable by sufficient sureties unless for capital offenses, where the proof is evident or the presumption great; and every half a year there shall be a goal delivery in every county of this province and territories, where imprisonment is not the punishment; and that gaolers shall not oppress their prisoners; and that all prisons shall be

free as to room, and all prisoners shall have liberty to provide themselves bedding, food and other necessaries during their imprisonment; and that the said respective prisons shall be workhouses for felons, thieves, vagrants and loose and idle persons, whereof one shall be in each respective county of this province and territories; and that any person wrongfully imprisoned shall have double damages against the informer or prosecutor.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 151.

CHAPTER LXXXIV.

AN ACT AGAINST PIRATES AND SEA-ROBBERS.

Whereas several piracies and robberies at sea and on the sea coasts have of late years been committed in many parts of the world, to the great injury of trade and terror and ruin of people under governments in amity with the Crown of England, and to the horrid scandal of the English nation; and forasmuch as divers persons justly suspected to be guilty of having practised the aforesaid crimes (as well by the nature and quality of the treasures found about them as by their being unable to give a good account of themselves, their residence and commerce) have from time to time been observed to come on shore and scatter themselves through these northern English colonies in America, to the apparent mischief and insecurity of such places where those robbers come, being generally persons of loose principles as well as vicious lives, and often-times corrupting the youth as much by their ill-examples as the more aged with their treasures, hoping in a wilderness to find a safe retreat from the cry and reach of justice which they have deservedly provoked in remote parts of the world, as also to enjoy with impunity and safety their ill-gotten riches: now to the end that all such persons may be effectually discouraged from taking shelter in this province or counties annexed, and that those that

attempt it may be speedily detected and not escape the hand of justice:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That every captain, master or other person or persons taking charge of any ship or vessel arriving in any port or place within the limits of this government, shall before he lands any person or persons signify and declare in writing under his or their hands, unto the next justice of the peace or chief-magistrate where he or they arrive, the names of every passenger and mariner he or they bring or have taken on board the said ship or vessel during that voyage; and shall answer upon his or their solemn attest to such questions as the said justice or magistrate shall demand concerning the passengers or mariners, under the penalty of twenty pounds, to be recovered for the use of the proprietary and governor. And whosoever shall knowingly import or set on shore in any port or place of this province or counties annexed, any person or persons who by the quantity of East Indian, Arabian or other foreign goods or coins, or by any other means whatsoever, may be justly suspected to be robbers or pirates, and shall not secure or bring him or them so suspected before some one of the magistrates of the place (who are hereby required to secure them till they give notice thereof to the proprietary and governor of this province or to his lieutenant and governor for the time being, in order to be examined and proceeded against according to their demerits) shall be liable to be prosecuted as accessaries and confederates, and suffer such pains and penalties as in such cases by law is provided; and if any person or persons residing or coming into this province or counties annexed, shall be duly convicted of knowingly importing or setting on shore any pirate or pirates in any of the neighboring colonies, [he or they shall be adjudged as accessaries and confederates as above said.

But inasmuch as pirates and sea-robbers generally land in some of the neighboring colonies where they hide and secure their treasures, and disguise themselves in such manner that without strict care and inspection they may pass through or

settle in this country undiscovered, and others who pass and re-pass and cannot easily be detected by the abovesaid marks or grounds of suspicion, and yet may be guilty of piracies, robberies, murders and misdemeanors:

[Section II.] It is therefore enacted by the authority aforesaid, That all unknown persons coming to lodge, sojourn or take up their abode, or to ask for work or employment in any inn, tavern, ordinary or any other house in any part or place of this province or counties annexed, and cannot give a good and satisfactory account of themselves and of their former and present way of living, or have not a pass or testimonial under the hand and seal of at least one justice of the peace near the place of their first coming within the limits of this government (setting down the place of their first landing and last abode, and the place whither they are to pass, and the time of their passage) or having a pass or testimonial do exceed the time therein limited above ten days, or counterfeit a testimonial, or produce one that is counterfeited, shall in all or any of these cases be taken up, and if they resist or endeavor to make their escape, they shall immediately be pursued by the party that suspects them, either in person or by hue and cry, till they can be apprehended and brought before some magistrate to be examined and dealt with according to law; and if the person so apprehended shall be convicted of piracy, he or they that so pursued and apprehended him shall receive the sum of ten pounds from this government, as the governor and council shall direct.

And to the end that all such persons may be effectually detected and discovered:

[Section III.] Be it enacted by the authority aforesaid, That every one keeping an inn, tavern, public house, inmates or lodgers, or any other person whatsoever within this province and counties annexed, who shall not forthwith acquaint some magistrate or (in case there be no magistrate within two miles) two sufficient housekeepers with the names and circumstances of all such suspected persons coming to their house to lodge, with a description of them and their horses, shall forfeit five pounds money of this province for every such neglect.

[Section IV.] And be it enacted by the authority aforesaid,

That if any person or persons within this province or counties annexed shall knowingly entertain, conceal, aid, abet, convey or carry away by land or water any such person or persons, or their goods and treasure, that shall be as aforesaid suspected or otherwise deemed or adjudged to be sea-robbers or pirates, within the construction of this act; and whosoever shall knowingly trade or hold any correspondence by letter or otherwise with any person or persons so suspected as aforesaid, and shall not readily endeavor to the best of his or their power to apprehend such offenders, seize and secure their goods and treasure, and have them forthcoming to the proprietary and governor of this province and counties annexed, or his lieutenant and governor for the time being, shall be liable to be prosecuted and suffer as accessaries and confederates as above said.

Provided always, That nothing in this act contained shall be construed to affect or charge any person or persons inhabiting in this government, that have an open and fair commerce with such as have been suspected of piracy or privateering, whom this or other governments under the Crown of England have seen or may see cause to bail and suffer to go at large.

And for the better and more effectual putting this act in execution:

[Section V.] Be it further enacted by the authority aforesaid, That all magistrates and officers in their several precincts within this government, and all other officers more immediately under the King's commission, whether of the admiralty or by appointment of the commissioners of the King's customs, are hereby required and empowered upon his or their knowledge or notice given that any persons suspected to be robbers or pirates are in any place within their respective precincts, immediately to empower and require the sheriff or other officer to call to his assistance such a number of men as he shall think needful for the seizing, apprehending and carrying to gaol all and every such person or persons; and in case any shall refuse to yield obedience to such magistrate or officer respectively (being convicted thereof) shall be fined in any sum not less than ten pounds nor more than twenty pounds money aforesaid; and every magistrate or

officer that shall omit or neglect his duty therein shall forfeit fifty pounds like money for every such offense, to be recovered in any of the courts of this government, for the use of the proprietary and governor. And that all proclamations and warrants of pursuit coming from any of the neighboring colonies or counties annexed, against pirates and felons, shall be complied with as if they were under the seal and authority of this province, so as the person or persons so pursued and apprehended be brought before some magistrate within this government, to be dealt with according to the laws thereof.

And whereas we are informed that the island of Madagascar, Natal and parts adjacent are the resort of pirates, and magazine of their spoil and plunder committed on the East India seas and other parts, and although we neither know nor have heard of any vessel or person of this province or counties annexed that ever was concerned directly or indirectly in trading to or from any of the said places, yet lest any person or persons under pretense of a lawful trade with the natives of those parts may or shall countenance or strengthen the pirates there, by furnishing them with provisions and ammunitions and transporting their ill-gotten goods:

[Section VI.] Be it enacted by the authority aforesaid, That if any person or persons within this province or counties annexed shall, for the space of three years next after the tenth day of the twelfth month called February last passed, in the year one thousand six hundred and ninety-nine, directly or indirectly trade to Madagascar or Natal by sending, freighting, fitting out or navigating any ship or vessel to either of the aforesaid places under any pretense whatsoever, he shall forfeit every such ship or vessel, goods and merchandises; and every person that shall knowingly and willingly be anyways concerned therein shall forfeit one hundred pounds, one-half thereof to the proprietary and governor or to his lieutenant and governor, and the other half to such as shall sue for the same.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER LXXXV.

**AN ACT FOR GRANTING AN IMPOST UPON WINES, RUM, BEER, ALE, CIDER,
&c., IMPORTED, RETAILED AND SOLD IN THIS PROVINCE AND TERRITORIES.**

In testimony of our respect and regard to our proprietary and governor and his heirs, and for his and their supply and support:

[Section I.] We the representatives of the freemen of this Province and Territories do entreat our Proprietary and Governor, that it may be enacted and be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of the said Province and Territories in General Assembly met, and by the authority of the same, That from and after the publication of the present act there shall be throughout this province and territories raised, levied, collected and paid unto the proprietary and governor, his heirs and assigns, during the space of two years after the said publication for all wines, rum, brandy, beer, ale, cider and other goods and merchandises herein mentioned, the several rates and duties hereinafter expressed, and in manner and form following: (That is to say) for all Maderia and other wines of the Western Islands imported from the place of growth directly by vessels, the major part of whose owners are inhabitants of this government, shall be paid twenty shillings for every pipe; and for all wines imported on any other vessels and directly from the place of growth, three pounds for every pipe and for all Madeira and other wines imported from any other colony or country and not directly from the place of their growth, six pounds for every pipe; and so proportionably for other casks; and for all rum, brandy and other spirits imported directly from the place of growth or where they were made, and belonging wholly and solely to some of the inhabitants of this province or territories and to no other person directly nor indirectly whatsoever, shall be paid one penny for every gallon; and for all rum, brandy and other spirits imported, belonging to any other than

the inhabitants of this province or territories as aforesaid, shall be paid three pence for every gallon. And by inhabitants shall be understood only such as are housekeepers or inhabitants that by their estates or residence are liable to be taxed in the county levies of the said province and territories.

And for preventing the inhabitants entering strangers' goods, whether sent on commission or otherwise, under color of their own:

[Section II.] Be it enacted, That all inhabitants as aforesaid coming to enter any rum, brandy or other spirits with the officer appointed for the same, shall take their solemn attest that all the liquors they shall then enter do wholly belong to themselves and no other person (not inhabiting this province or territories) directly nor indirectly whatsoever; and every inhabitant refusing to take such attest as aforesaid shall pay the whole three pence for every gallon of such liquors; and whosoever in this case shall be proved to have taken a false attest and thereby to have entered strangers' goods under color of their own, shall pay four pence for every gallon so colored, or be sued for the same in an action of debt, and be further prosecuted for taking a false attest, according as is by law provided. And for all rum, brandy and other spirits imported from any other part or place than from the place of growth and where they were made, shall be paid six pence for every gallon by the importer. And in case any of the said wines, rum, brandy or other spirits shall be again exported out of this province or territories into any other colony or place (the Province of West New Jersey excepted), and by good and sufficient evidence it shall fully appear that the duties aforesaid respectively due for the same at importation were well and truly paid, then the merchant or exporter shall and may draw back of the said duties one moiety, he first giving sufficient security that the said wines, rum, brandy or other liquors shall not be again put on shore or expended in any part or place of this province or territories, or of the Province of West New Jersey, after they have been put on board in order to be exported. Also for all sugars imported and not directly from the place of growth shall be paid five shillings for every hundred weight; for all cider imported, except

from the Province of West New Jersey, three shillings per barrel; for every negro, male or female, imported, if above sixteen years of age, twenty shillings; for every negro under the age of sixteen, six shillings; for all deer-skins exported, forty shillings for every hundred pounds value, and the true value thereof shall be given upon the attest of the exporter; for all hides, raw and tanned, exported, two shillings and six pence per hide; all the said sums to be paid by the importer or exporter of the said liquors or goods respectively.

[Section III.] And be it further enacted by the authority aforesaid, That for all strong beer, ale and cider drawn and sold by retail in all or any public house or houses in this province or territories, shall be paid two shillings and six pence for every barrel; and for all wine sold by retail, thirty shillings for every pipe, and so proportionably. And every person within this government that shall sell rum, brandy or other strong liquors under a gallon, without a permit or license from the governor, shall pay for every such offense the sum of five pounds, two-thirds thereof to the use of the governor, and one-third to him or them that will inform and sue for the same.

[Section IV.] And be it enacted by the authority aforesaid, That every person permitted or licensed to retail rum, brandy or other strong liquors under a gallon shall, for all the rum, brandy or other strong liquors which he sells or retails, pay to the governor four pence per gallon; and so proportionably for every greater or less quantity of all and every the wines, spirits, beer, ale, cider and other things respectively charged. as aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That the several rates, duties and charges above mentioned, hereby set upon all and every the said wines, spirits, beer, ale, cider and other goods and commodities which shall be imported and exported as aforesaid, from and after the publication hereof shall, from time to time, be paid to the proprietary and governor, his heirs and assigns, or to such person or persons as he or they shall appoint, by the merchant or merchants, importer or importers of the same respectively, in ready money, upon his or their entry or entries made of the things aforesaid

imported, and before the landing thereof, or be secured to be paid within three months after at farthest; and when entered or paid for and secured as aforesaid, the officer shall give a permit under his hand for landing thereof, at the time such entry is made; but after a true gauge of the liquors before mentioned that pay by the gallon, ten per cent shall be allowed for leakage. And the said rates and duties charged upon wines and liquors retailed, shall from time to time be paid to the proprietary and governor and his heirs and assigns, or to such person or persons as he or they shall appoint, by the retailer or retailers of the same respectively, in ready money, in such sort, manner and way as the proprietary and governor, his heirs and assigns, with advice of his or their council, shall direct and appoint.

[Section VI.] And be it enacted by the authority aforesaid, That if any wine, rum, brandy, cider or other goods, merchandises and things whereof the rates aforesaid are or shall be due, shall at any time hereafter be unshipped to be laid upon the land or put into any house or cellar, or any beer, ale or other liquors be retailed and sold, the respective rates and duties before mentioned due or to be due for the same, not being paid or secured as aforesaid to such person or persons as shall be appointed to collect the same, and a permit as aforesaid not being first had and obtained, that then from and after the publication hereof, all the said wines, rum, brandy, spirits, cider, beer, ale and other goods, merchandises and things whatsoever, as well imported as sold by retail respectively, shall be forfeited to the proprietary and governor, his heirs and assigns, two-thirds part thereof to the proprietary and governor to his own behoof and use, and one-third part thereof to him or them that will seize or sue for the same in an action of debt in any court of this province or territories.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for all and every officer and officers appointed by the governor to collect, or that shall be concerned in collecting, the imposts and duties hereinabove mentioned, at any time to go on board any ship or vessel and to search the same, and to enter into any house, shop, cellar,

warehouse or other place where he or they may suspect any of the liquors, goods or things aforesaid to be hid or concealed, and to call to his or their assistance any constable or constables of the town or place (who are hereby required to give their assistance) and in case of resistance to break open any such house, shop, cellar, warehouse or other place, having first obtained a warrant from any one of the justices of the peace of the county (who are hereby empowered and required to grant such warrants), and to seize, remove and carry away all such wines, rum or other liquors, or goods as aforesaid, that shall be found concealed contrary to the true intent and meaning of this act, and that shall not be proved to have paid or secured the respective duties herein mentioned and expressed, any law or act to the contrary in anywise notwithstanding.

[Section VIII.] And be it further enacted, That this present act, with the alterations and explanations therein now made, shall continue in force for two years after the publication thereof, and that the former act for granting an impost, &c., made and passed the last sessions [sic] of general assembly for this province and territories, shall till the said publication hereof continue in full force, power and virtue.

Passed November 27, 1700; expired; considered by the Queen in Council February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 164.

CHAPTER LXXXVI.

AN ACT FOR THE RAISING OF ONE PENNY PER POUND AND SIX SHILLINGS PER HEAD FOR SUPPORT OF THE GOVERNMENT AND PAYMENT OF DEBTS AND DEFRAYING THE NECESSARY CHARGES THEREOF.

Whereas there was an act made at an assembly held the tenth day of the Third month, one thousand six hundred and ninety-nine, entitled "The law for raising one penny per pound and six shillings per head for support of the government and the payment of debts and defraying of the necessary charges

thereof," which money so to be raised by the said act was to have been paid to James Fox of Philadelphia, merchant; but this Assembly being informed that several counties within this government have neglected either to assess or collect the same, and that other counties have assessed and collected all or most part of the said tax, and the said James Fox dying before the same became payable according to the direction of the said act, and no other as yet appointed treasurer in his stead, the money remains some part in the collectors' hands, some uncollected, and in some counties not as yet rated or assessed: and to the end that the said tax may be assessed, collected, paid and completed and the just debts of the province paid:

[Section I.] Be it therefore enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all and every person and persons within this government having any real or personal estate, either in their own possession or in the possession of others in trust for them, over and besides the household goods and implements they use, shall yield and pay to the use aforesaid after the rate of one penny per pound clear value of such estates, excepting such persons as have already paid the respective sums according to the said assessments already made as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That all housekeepers within this province and territories shall be assessed and pay after the rate of one penny per pound for their clear estates (excepting as afore excepted), and that all males within this province and territories who, at the making of this act, have been out of their servitude for the space of six months and shall be above the age of twenty-one years, being worth seventy-two pounds or upwards, shall be assessed and pay after the rate of one penny per pound clear estate as aforesaid, and that such of the males only as be not worth seventy-two pounds shall pay six shillings per head, except those as have already paid as aforesaid.

Provided always, That the proprietary and his deputy in government shall not be assessed by virtue of this act.

[Section III.] And be it further enacted by the authority aforesaid, That for the effectual putting this act in execution the respective justices or any three of them within the respective counties shall call to their assistance four or more of the most substantial freeholders as they shall see meet, and that they or the major part of them shall, within two months next after publication of this present act, meet together in their respective counties, and by warrant from some of the said justices of the proper counties where the assessment is not already made, to cause the constables within the said county to bring in certificates in writing of the names of every person residing within the limits of those places they shall be charged with, and of the substances of every of them who are to be rated by this act; which said constables shall be allowed by the collectors three pence per pound for their trouble therein, which said assessors are hereby enjoined to ascertain and inform themselves by all lawful means they can, of the true value of the clear estates both real and personal within those counties and limits with which they shall be charged respectively, and being thereof ascertained they are to assess themselves and others for and in respect of the said estates according to the rates aforementioned; and thereupon the said assessors shall cause the respective clerks of the counties to draw out lists and fair duplicates of the said assessments where not already done as aforesaid, to be signed by the said assessors, for which the said clerks shall be allowed twenty shillings respectively out of the said assessments, and the said assessors shall appoint the sheriff or such other person of the respective counties as they shall see meet to be collectors of the said rate, for which service the said assessors shall be paid and allowed by the collectors six pence per pound out of the said assessment.

[Section IV.] And be it further enacted by the authority aforesaid, That the said money so as aforesaid levied or to be levied shall be paid at Philadelphia by the respective collectors on or before the first day of the Second month next ensuing (danger and casualties excepted) unto Samuel Carpenter, of Philadelphia, merchant. But in case of mortality it shall be lawful for the governor and council to appoint some other per-

son to be treasurer, whose receipts shall be sufficient discharges to such collectors; which said collectors, for the collecting the said sums, shall retain in their hands respectively for every twenty shillings by them paid as aforesaid, the sum of one shilling, with all reasonable charges as shall appear to be due for portage of money or other pay by them collected by virtue of this act, as a reward for their pains; a fair and true account of which said assessment shall be rendered by the said treasurer, with the names and several values of the respective estates with the real sums levied by this act or the aforesaid act, and also of the money and goods by him received and disbursed by virtue thereof to the governor and council, and by the council to the assembly; which said treasurer or treasurers, for their care and trouble therein, shall retain in his or their hands for every twenty shillings received and paid as aforesaid, the sum of six pence.

[Section V.] And be it further enacted by the authority aforesaid, That if any of the said justices, assessors, clerks or treasurers shall refuse or neglect their respective duties in the premises and be duly convicted thereof, [he or they] shall be fined by the governor and council in any sum not exceeding five pounds, for such uses as the governor and council shall direct; and the governor and council are hereby empowered to appoint such other assessors and officers for the assessing and collecting the same from time to time until the same be fully levied as they shall think fit.

[Section VI.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever within this government who have been or shall be assessed or rated in any sum or sums of money by this or the former act to be levied, shall deny, refuse or delay to pay the same, that then it shall and may be lawful for any such collector, by virtue of a warrant under the hand and seal of any justice of the peace of the county where such offender shall reside, who by virtue of this act are required to grant such warrants, and [sic] to levy the same by distress and sale of such person's or persons' goods and chattels, returning the overplus (if any be), to the owners

after the sum assessed and distrained for, with all reasonable charges, are [sic] deducted.

Provided always, That if any person certified, assessed or rated for or in respect of any estate for which by this act he or they is or may be rated, do find him or themselves aggrieved at such rating and shall, within a reasonable time before the same rate becomes payable, make complaint to the assessor who signed and allowed the said rate, which said assessors shall appoint a convenient time for such complaint made, and there particularly hear and examine the persons complaining or any other having the value of the complainants' estate real and personal, and [sic] thereupon the said assessors shall abate, defalk or confirm the said assessments according as the complainants shall appear to be worth, either by the parties' own attest or proof of others.

Provided also, That the several collectors shall gather and receive the respective sums assessed as aforesaid in current money of this province, or for want thereof in good merchantable country produce at the current market price according to the laws of this government, at such convenient landing-places in each county as the said assessors shall appoint.

[Section VII.] And be it further enacted by the authority aforesaid, That if any person be sued for anything done in pursuance of this or the former act, such person so sued may plead the general issue and give this act and special matter in evidence, and if the plaintiff or prosecutor shall be cast, the defendant shall recover treble charges.

Provided always, That none shall be punished by virtue of this act for any neglect or miscarriage in the execution thereof but within one year after such offense done or committed.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 16t.

CHAPTER LXXXVII.

[AN ACT FOR GRANTING AND RAISING] TO THE PROPRIETARY AND GOVERNOR THE SUM [OF TWO THOUSAND POUNDS UPON] THE CLEAR VALUE OF ALL REAL AND PERSONAL ESTATES AND [UPON THE POLLS OF] ALL FREEMEN WITHIN THIS PROVINCE [AND] COUNTIES ANEXED.

[As a further testimony of our] sincere respect and gratitude to our proprietary [and governor, considering as well his past] care and expense as the present assurance of his [justice and kindness towards the inhabitants of this province] and territories in confirming to them [their lawful and equitable claims to all their lands and] estates:

[Section I.] We the freemen of this [province and territories in General Assembly met, do] freely present unto William Penn, our Proprietary and Governor, the gift of two thousand pounds to be rated and assessed as is hereinafter mentioned and therefore we entreat him that it may be enacted, and be it enacted by the Proprietary and Governor and freemen of this Province and Territories in General Assembly met], and by the authority of the same, That the said sum of two thousand pounds shall be apportioned and laid in manner following: (That is to say) the county of Philadelphia shall pay one thousand and twenty-three pounds; the county of Bucks shall pay two hundred and twenty-five pounds; the county of Chester shall pay three hundred and twenty-five pounds; the county of Newcastle shall pay one hundred and eighty-two pounds; the county of Kent shall pay one hundred and thirty-nine pounds, the county of Sussex shall pay one hundred and six pounds.

And to the end that the respective sums aforesaid may be laid with as much equality and indifferency as may be upon the inhabitants:

[Section II.] Be it enacted by the authority aforesaid, That all and every person and persons having any estate real or personal within the respective counties of this province and territories (over and above their respective household goods and

implements used in trade and getting a living, except such persons only as have a charge of children, the clear value of whose estates both real and personal amounteth not to thirty pounds) shall be rated and assessed, and are hereby rated and assessed, so much by the pound upon the clear value of all their said real and personal estates, within the said respective counties, as shall, with the poll-money hereinafter mentioned, amount to the respective sums aforesaid, clear of all charge in assessing and collecting the same: and the rate of four shillings per head of all freemen that are sixteen years of age or upwards, not having families or charge to maintain, and [who] are not under their parents' tuition and assisting them in their plantation or trade, and are not otherwise rated by this act, in proportion to every penny on the pound so raised to complete the sum aforesaid. And for the more effectual putting this act in execution concerning the assessing, ordering, levying and collecting the same, it shall and may be lawful for the respective members of this Assembly in each county, or any three of them, and they are hereunto respectively required [to call to their assistance four or more of] the most substantial free-holders as they [shall see meet, and that they or] the major part of them shall, within two [months next after the publication hereof, meet] together in their respective counties [and by warrant under their or some] of their hands and seals, cause the constables [to bring in certificates in writing of the] names of every person within their respective [limits with which they shall be charged], and of the substance and value of every one of [them who are to be rated by this act] which said substances and values shall again be [liable to the valuation of the assessors aforesaid], who are, by all lawful means they can [to inform themselves of the true] valuation of all the clear estates both real [and personal within their respective counties, and shall] assess themselves and others [for and in respect of the said estates as aforesaid; and the said assessors] shall thereupon [cause the respective clerks of the counties to draw out lists and fair duplicates of the said assessment, to be signed by the said assessors; and] the said clerks shall be allowed [twenty shillings respectively out of the county] levies; and the said assess-

ors shall [appoint the] sheriff of the said county, or such other person or persons as they [shall see meet, to be collectors] of the said rate, for which service the said assessors shall be paid or allowed four pence on the pound, to be paid out of the county levies.

[Section III.] And it is further enacted by the authority aforesaid, That one moiety of the respective sums aforesaid so levied, shall be paid at such convenient landing-places in each county as the said assessors shall appoint, to such person or persons as the proprietary and governor or his heirs shall appoint, whose receipts shall be sufficient discharges to the respective collectors, on or before the tenth day of the Third month next; and that the other moiety thereof shall be paid in manner aforesaid on or before the first day of the Tenth month in the year one thousand seven hundred and one. And the said collectors, for gathering the said sums, shall be paid out of the county levies respectively the sum of one shilling for every twenty shillings by them severally paid as aforesaid, as a reward for their pains.

[Section IV.] And it is further enacted by the authority aforesaid, That if any one of the said assessors, clerks or receivers shall refuse or neglect their respective duties in the premises, and be duly convicted thereof, [he or they] shall be fined by the governor and council in any sum not exceeding five pounds; and the governor and council are hereby empowered, upon such refusal or neglect, to appoint such other assessors and officers for the assessing and collecting of the same from time to time until the same be levied, as they shall think fit.

[Section V.] And it is further enacted by the authority aforesaid, That if any person or persons whatsoever within this province or territories which shall be assessed or rated any sum or sums of money by virtue of this act to be levied, shall deny, refuse or delay to pay the same, that then it shall and may be lawful for any such collector, by virtue of a warrant under the hand and seal of any justice or justices of the peace of the county where such offenders shall reside, which justice or justices are by virtue of this act required to grant such warrants—to levy the same [by distress and sale of such person's or persons' goods

or chattels, returning the overplus (if any be) to the owners, after the sum assessed and distrained for with all charges is deducted. And if any person assessed to pay the four shillings aforesaid shall refuse or delay to pay the same, and the respective collector can find no visible estate or goods of such person to distrain upon, then the said collector shall, by a warrant from a justice of the peace of the county, cause such person to come before him or some other justice of the said county; and if the said person shall then refuse or delay to pay the said four shillings, together with the charge of the warrant and collector's trouble, then the said justice may and shall commit, and is hereby authorized to commit, such refractory person to the county gaol, there to remain confined until by his labor he shall make satisfaction for his person.

Provided always, That if any person or persons certified, assessed or rated for or in respect of any estate for which by this act he or they is or shall be rated, do find him, her or themselves aggrieved by such rating and shall, within a reasonable time before the said rate becomes payable, complain to the assessors who signed and allowed his, her or their rates, which said assessors shall appoint a convenient time for hearing such complaints made, particularly to hear and examine the person] or persons complaining, or any other having the value of the complainant's real and personal estate, and [sic] thereupon the assessors shall abate, defalk, increase, or confirm the said assessment according as the complainant's estate shall appear to be worth, either by his own attest or proof of others.

Provided also, That the several collectors shall gather and receive the respective sums assessed as aforesaid, in current money of this province, or for want thereof in good merchantable country produce at the current market prices, at such convenient landing places in each county as aforesaid.

[Section VI.] And it is further enacted by the authority aforesaid, That if any person be sued for anything done in pursuance of this act, such person so sued may plead the general issue and give this act and the special matter in evidence; and if the plaintiff or prosecutor shall be cast, the defendant shall recover treble damages.

Provided always, That no person or persons shall be punished by virtue of this act for any neglect or miscarriage in the execution thereof but within three months after such offense is committed.

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 159.

CHAPTER LXXXVIII.

[AN ACT FOR THE EFFECTUAL ESTABLISHMENT AND CONFIRMATION OF THE FREEHOLDERS OF THIS PROVINCE AND TERRITORIES, THEIR HEIRS AND ASSIGNS, IN THEIR LANDS AND TENEMENTS.

[Whereas at the first laying out and settling of lands in this province of Pennsylvania and territories thereunto belonging, many great neglects and errors have been committed through the want of experience and care both in officers and the people, as well to the wrong of the proprietary as the insecurity of the said people and the great inconveniency of both, for remedy whereof and for the safety of the said province and territories in general, and that the inhabitants may be completely and absolutely settled and fully secured in their rights and titles to land, and all occasions of difference and contest thereupon may forever hereafter be prevented and removed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all grants and parcels of land taken up within this province and territories, and duly seated by virtue of letters patent or warrants obtained from governors or lawful commissioners under the Crown of England, before the King's grant to the proprietary and governor] for this province (except the same was had by fraud or deceit) shall be quietly enjoyed by the actual possessors, their heirs and assigns; and that all

lands and tracts of land duly taken up by virtue of warrants obtained pursuant to purchases made and had from the proprietary and governor, or in pursuance of any commission or power granted by the proprietary to any other person (except as before excepted and except where the same does interfere with other persons' just rights and claims) shall be quietly and peaceably enjoyed by and confirmed to the possessor (according to the said warrants) his heirs and assigns forever; and although no patent hath been granted, yet if peaceable entry and possession hath been obtained by warrants or otherwise as aforesaid, and thereupon quiet possession hath been held during the space of seven years or more, such possession or such entry as aforesaid shall give an unquestionable title to all such lands according to the quantity they were taken up for, and shall be deemed and held good and be confirmed by the proprietary to the seaters or possessors thereof, their heirs and assigns forever.

[Section II.] And be it further enacted by the authority aforesaid, That all grants for land from the proprietary shall be henceforth under the great seal of this province and territories; which grants shall give the respective grantees an absolute title to all the lands therein to be granted or confirmed, be they more or less than laid out for, and shall never more thereafter be subject or liable to any further survey; and that all grants and patents heretofore granted, whether under the broad or lesser seal, either by the proprietary himself or his commissioners as aforesaid, shall be firm and good to all intents and purposes for the quantity of land in such grants expressed, forever after the time herein [limited without any further dispute.

And whereas several mistakes and errors have happened through the negligence, ignorance or fraud of surveyors or chain-carriers, and many surveys have thereby been made erroneous, for the rectifying whereof:

[Section III.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the proprietary and governor and his heirs, by his and their lawful surveyors at any time within space of two years after the publication hereof, to resurvey or

cause to be resurveyed any person's land within this province or territories; and of upon such resurvey, allowing four acres in the hundred over or under for the difference of surveys, there be more land found in the number of acres than the said tract so surveyed was laid out for, allowing also six per cent for roads and highways, all such overplus lands shall be to the proprietary, and the possessor thereof shall have the refusal of it from the proprietary at reasonable rates; and if the proprietary and the said possessor do not agree, then and in such case the proprietary shall choose two men, and] the purchaser or renter shall choose two more, who shall either fix a price on the said overplus land to be paid by the possessor, or otherwise appoint where it shall be taken off for the proprietary in one entire piece at an outside, saving to the purchaser or renter his improvements and best conveniences, any three of whom agreeing shall be conclusive, and the charges of resurveying such lands shall be borne by him to whom the overplus land shall fall: (That is to say) by the purchaser or renter of the main tract if he buy the overplus; or if not, by the proprietary.

[Section IV.] And be it further enacted by the authority aforesaid, That if any purchaser or tenant, having procured his land to be again surveyed by any of the lawful surveyors, shall find the same to be deficient of the quantity it was before laid out for and should contain (allowance for difference of surveys, roads and highways being first made as above expressed), all such deficiencies shall be made good by the proprietary and governor according as he receives for the overplus land as aforesaid.

And that the people in the said surveys may have the greater satisfaction:

[Section V.] Be it further enacted by the authority aforesaid, That no surveyor shall enter upon any person's land to make a resurvey of the same without first giving notice to the owner or possessor thereof, or leaving notice at his house if he dwell near the same, and if he do not know him and the said owner dwell not in the precinct or township, that then such surveyor shall give notice thereof to the two next neighbors, under the penalty of twenty pounds to be forfeited to such owner; and in

case any surveyor shall hereafter willfully or negligently survey any lands to the prejudice of the possessor or owner, he shall make good double damages to the party grieved.

[Section VI.] And be it further enacted by the authority aforesaid, That the first hundred purchasers of land in the province [shall be preferred and have liberty to take up their lands before any after purchasers, so that they make application for the same within four months after publication hereof.

[Section VII.] And be it further enacted, That where any lands have been purchased or taken up in copartnership, and either of the parties die before division be made thereof, the survivor shall claim his equal and just share and proportion, and the heirs and assigns of the deceased partner shall hold and enjoy the part belonging to such deceased as firmly as when all the parties were living, unless it shall appear that there has been some contract or agreement made to the contrary.

And whereas it may sometimes happen that where some have purchased a parcel of land (for instance a thousand acres), and the same has been surveyed and laid out; but upon a resurvey of such tract it is found to contain twelve hundred acres, of which the purchaser having been wholly ignorant hath sold either part of it or the whole to several persons, or has given it to several children under the notion of only a thousand acres, upon resurvey of which by the proprietary's order the overplus may happen to fall within several smaller plantations or to consist entirely of one of them.

[Section VIII.] Be it therefore enacted by the authority aforesaid], That in such case the proprietary's overplus shall not be taken off any one particular of the said several plantations, but off the rough land remaining undisposed of in the whole tract, if any such be; and if there be not any such, then to be taken off every particular plantation proportionably, and the charges of running the division lines shall be always borne by the respective owners of the several plantations; and where the overplus is taken in one entire piece off the whole, it shall and may be lawful for the first purchaser to cause the several tracts by him sold to any mesne purchaser or purchasers to be

resurveyed by any lawful surveyor, and the overplus found in such tracts or mesne purchases, above what they were sold or rented for, shall go to the person of whom they were bought, in like manner as the overplus lands in general go to the proprietary and governor.

And whereas our proprietary and governor did formerly in a clause of our charter of privileges give and grant to all and every one of the inhabitants of this province and territories full and quiet enjoyment of their respective lands to which they had any lawful or equitable claim, saving only such rents and services for the same as were or customarily ought to be reserved to the proprietary, his heirs and assigns, which clause upon delivering up our said charter was reserved, and our said proprietary and governor was pleased to reserve to us:

[Section IX.] We therefore desire it may be enacted, and be it enacted by the authority aforesaid, That the said clause shall be in as full force, power and virtue as if the surrender of the charter as aforesaid had never been made.

Provided always, That nothing in this act shall be construed to confirm any lands to the prejudice of the right of infants married women, lunatics or persons beyond the seas, anything herein to the contrary in anywise notwithstanding.

And for the satisfaction and [encouragement of aliens coming into this province or counties annexed:

[Section X.] Be it further enacted by the authority aforesaid, That if any alien who is or shall be a purchaser, or who doth or shall inhabit in this province or territories thereof, shall decease at any time before he can well be naturalized, his right and interest therein shall notwithstanding descend to his wife and children or other his relations, be he testate or intestate, according to the laws of this province and territories thereof in such cases provided, in as free and ample manner to all intents and purposes as if the said alien had been naturalized.

And whereas divers persons beyond seas are and have been owners of lands within this province and territories, and such persons have usually appointed attorneys to sell and dispose of the same, to the end therefore that the several persons that

have so purchased, their heirs and assigns, may forever hereafter be secured in their titles and covenants:

Section XI.] Be it enacted by the authority aforesaid, That all sales of lands, tenements and hereditaments made by lawful attorneys especially granted to sell such lands, are and shall be deemed and adjudged good and effectual in law to all intents, constructions and purposes whatsoever, as if the said owners of such] lands had by their own deeds, bargains and sales actually and really sold, conveyed and executed the same; and all and singular the lands, tenements and hereditaments sold and conveyed as aforesaid shall be and remain to such purchasers respectively, their heirs and assigns, forever, as they might or ought to have done to the owner or owners of such lands and premises so employing his or their attorney or attorneys as aforesaid.

[Section XII.] And be it further enacted by the authority aforesaid, That all lands, tenements and hereditaments that hereafter shall be sold by virtue of any letter of attorney shall be good and valid respectively to the purchasers, their heirs and assigns forever, as aforesaid.

Provided, the said letters of attorney be attested before some magistrate or public notary (where the same shall be made and executed) and certified under their respective hands and public seals, and be proved within this province or territories *viva voce* by two witnesses at least.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the *Acts of Assembly* passed October 28, 1700, Chapter 105; January 12, 1705-6, Chapter 132; and June 7, 1712, Chapter 183.

CHAPTER LXXXIX.

[AN ACT FOR ERECTING A BRIDGE OVER THE CREEK AT CHESTER IN THE COUNTY OF CHESTER.

Whereas the town of Chester is daily improving, and that there is lately confirmed by the governor and council a commodious piece of land for enlarging the same, which if duly encouraged may in after ages be very advantageous to the province and territories, more especially to the inhabitants of the said county; but forasmuch as the lower part of that county and others traveling that way have no road to the said town or bridge over the said creek:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same,¹ That the county court for the county of Chester to be held next after the publication hereof shall lay out a road from what part of the King's road they shall think most convenient, provided they bring it to the place laid out by the subscribers, to be as near as can be to Ralph Fishbourn's for a bridge to be built as hereafter expressed.

[Section II.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the inhabitants of the town and county of Chester, or any others joining with them by subscription, to erect and build a draw-bridge in such place over the said creek as the majority of them shall think fit; and all persons subscribing the sum of fifteen shillings or more, and their respective heirs, shall be free and exempt from any rate that by this law may be taken of others passing and repassing the said bridge.

But forasmuch as the mills built upon that creek are and have been beneficial to the country] by encouraging the wheat trade, and otherwise to the benefit of the back inhabitants

¹ The enacting clause is defective in the Act Book, and has been supplied by the Commissioners.

and others going by land or water to the said mills, and that the owners of the said mills have been at great charge and trouble from time to time for erecting, repairing, and still are like to be for maintaining the same for trade:

[Section III.] Be it enacted by the authority aforesaid that the said subscribers shall at all times provide a fit person to attend the said draw-bridge, who shall draw up the same sufficiently for sloops, shallop, boats and small vessels to go up and down the said creek to the said mills without let or damage, at any time when required by any person that shall be going with such vessel or vessels to or from the said mills; and that there shall be left twenty feet at least where the bridge is erected, clear betwixt the timber or stone-work from the one side to the other of the said creek, that floats of logs may not be hindered from coming and going to the said mills; and if at any time the said bridge shall be a let or hindrance to any sloop, shallop or boat, or small vessel with mast and rigging, or float of logs, to pass by water up and down the said creek to and from the said mills, that then, on proof thereof made before the next county court for the said county, just and real damages shall be paid to the party grieved by the said undertakers.

And in case the said impediments be not removed, then the said bridge shall be pulled down by order of the governor and council.

Provided always, No person shall at any time be obliged to help or pay towards the building or maintaining the said bridge without his free will and consent.

[Section IV.] Be it further enacted, That it shall and may be lawful for the subscribers within the said town and county, or the majority of them, to appoint a person to receive for each horse passing over the same the sum of one penny; and for each cart laden or unloaded the sum of two pence; which said rate or money so received shall be disposed of as the majority of the subscribers from time to time shall appoint, more especially for the encouragement of some person that may or shall attend the said bridge in order to the accommodating the boats, sloops or shallop that shall have occasion to pass up the said creek or down it as aforesaid.

Provided also and it is hereby intended, The said inhabitants or the subscribers shall satisfy and pay those persons to whom the lands belong to which the[y] fasten the said bridge on both sides [of] the creek.

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XC.

[AN ACT ABOUT COUNTRY PRODUCE TO BE CURRENT PAY IN THE TERRITORIES OF THE PROVINCE OF PENNSYLVANIA.

Whereas there is a necessity, for the sake of commerce, that the growth and produce of the territories annexed to the Province of Pennsylvania shall pass in the lieu of money:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all merchantable wheat, rye, indian-corn, barley, oats, pork, beef and tobacco, shall be accounted current pay at the market price within the said territories; except where contract is made for silver-money or other specie.

Provided, That where the debtor hath divers sorts of such country produce as aforesaid, it shall be in the election of the creditor which of them he will accept for his debt.]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon.

This act applies only to the lower counties where it was probably never recognized: the portion of the original roll containing it has been entirely destroyed and the text above given is supplied from Act Book A, page 96.

CHAPTER XCI.

AN ACT CONTINUING AND CONFIRMING THE LAWS HEREAFTER EXPRESSED.]

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That these following laws confirmed or passed in the year one thousand six hundred and ninety-three, or since, viz., The law about court proceedings and summons (1); The law about trials by twelve men (2); The law about arrests (3); The law about false imprisonment (4); The law about acknowledging deeds in court (5); The law about seven years' quiet possession (6); The law about summoning of juries (7); The law about the manner of giving evidence and against such as lie in conversation (8); The law about appeals to the provincial court (9); The law about forms of writs (10); The law against persons judging in their own cause (11); The law about officers' fees, except the law about surveyors' fees (12); The law about Indian traders (13), are hereby continued, confirmed, ratified and declared to be in force until they be respectively altered or repealed.

And for prevention of all uncertainties, disputes and mischiefs that may arise or happen by the continuance of divers laws of the same or like purport.

[Section II.] Be it enacted and declared by the authority aforesaid, That all laws whatsoever heretofore made and used within this province and territories, of the same or like tenor with these laws aforesaid or any of them, shall be null and void; and they are hereby declared null and void to all intents and purposes.

Passed November 27, 1700; repealed by the Act of Assembly, passed October 28, 1701, Chapter 105.

This act does not appear to have been submitted to the consideration of the Crown, and is not recorded in the Act Book. The acts severally mentioned in it were separately enacted at the same time and follow immediately as Chapters 92 to 104, inclusive.

CHAPTER XCII.

[THE LAW ABOUT COURT PROCEEDINGS AND SUMMONS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That in all courts, all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves, or if unable, by their friends: and that the first process shall be the exhibition of the complaint, fourteen days before the trial: and that the defendant may be prepared for his defense, he or she shall be summoned no less than ten days before, and a copy of the complaint delivered him or her, at his or her dwelling house, to answer unto. But before the complaint of any person shall be received, he or she shall solemnly declare in open court, That he or she believeth in his or her conscience that his or her cause is just. And if the party complained against shall notwithstanding refuse to appear, the plaintiff shall have judgment against defendant by default.]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II.

CHAPTER XCIII.

[THE LAW ABOUT TRIALS BY TWELVE MEN.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all trials in civil cases shall be by twelve

men, and as near as may be peers or equals, and of the neighborhood, and men without just exception: and in criminal matters of life there shall be first twenty-four returned by the sheriff for a grand inquest, of whom twelve at least shall find the complaint to be true; and then forty-eight shall be likewise returned by the sheriff, of whom twelve shall have the final judgment; but reasonable challenges shall be always admitted against all or any of them.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XCIV.

THE LAW ABOUT ARRESTS AND MAKING DEBTORS PAY BY SERVITUDE.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, And [sic] in case any man arrest another going out of the province, he shall be ready with his declaration and evidence the next day, and shall put in security to pay the charges and damages sustained by the party arrested, if he shall be found in the wrong.

[Section II.] And be it further enacted, That all persons of known estates refusing to pay their just debts if arrested and imprisoned, shall be kept at their own charges until security be given or satisfaction made.

Provided, That no persons shall be kept in prison for debt or fine longer than the second day of the next sessions after his or her commitment, unless the plaintiff shall make it appear that the person imprisoned hath some estate that he will not produce, in which case the court shall examine all the persons suspected to be privy in the concealing such estate; but if no estate can be found, the debtor shall satisfy the debt by servitude as the county court shall order, if desired by the creditor.

[Section III.] And be it further enacted, That no inhabitants in this province or territories shall be taken for debt before a trial, unless he or she be about to depart out of the same and shall refuse to give sufficient bail for appearance at the next court, or security for the payment of the debt, or hath not goods sufficient to be attached; and that in such cases, before any warrant of arrest be granted, the plaintiff shall solemnly declare before those who are empowered to grant the same, that he or she believeth in his or her conscience that his or her cause or action is just, and his or her declaration and evidence are ready for trial, if the defendant shall pray a special court; and that in cases relating to other inhabitants residing within the said province and territories, the process and proceedings shall be by summons as by the sixty-sixth chapter of laws is established and ordained; and further that it shall and may be lawful for any plaintiff to sue out a writ of summons and serve upon the defendant personally, in whatsoever county he or she shall be found, although it should happen that the dwelling or abode of such defendant may be in another county; and when so personally summoned, such defendant shall be bound to appear in the court of the said county out of which such writ or summons was issued, and in default of appearance judgment shall be entered against him or her: or if such defendant appear, and upon trial judgment shall go against him or her, execution shall be awarded in open court to be directed to the sheriff of such county where the defendant dwells or inhabits, or where his estate lies, to be executed in such manner as if the said execution had proceeded from the court of that county where he is sheriff, any law, usage or custom to the contrary hereof notwithstanding.

Provided always, That this law shall not extend to any members of the provincial council and assembly during their attendance and service in provincial council and assembly, and fourteen days before and fourteen days after their said service and attendance therein.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 153.

CHAPTER XCV.

[THE LAW ABOUT FALSE IMPRISONMENT.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That any person wrongfully imprisoned shall have double damages against the informer or prosecutor.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER XCVI.

[THE LAW ABOUT ACKNOWLEDGING DEEDS IN COURT.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all deeds of sale, mortgages, settlements, conveyances (except leases for a year) shall be declared and acknowledged in open court; and the form of possession in transferring of titles shall be by the party or his attorney delivering the said deed or gift, in open court, into the hand of him or his attorney to whom it is made, and that to stand good to all intents and purposes.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 136.

CHAPTER XCVII.

[THE LAW ABOUT SEVEN YEARS' POSSESSION.]

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That seven years' quiet possession of lands within this province or territories thereof shall forever hereafter give an unquestionable title, except in cases of infants, married women, lunatics and persons beyond the seas.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 145.

CHAPTER XCVIII.

[THE LAW ABOUT SUMMONING OF JURIES.]

That due preparation may be made for dispatch of justice:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the sheriff of every county shall (ten days before the sitting of the ordinary courts of justice) summon a sufficient number of freemen to attend the said court, for the service of the said county; and upon the neglect of his duty herein, to be liable to pay double damages to the party or parties grieved.]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; supplied by the Act of Assembly, passed March 19, 1785, Chapter 1138. See also the Acts of Assembly, passed March 29, 1806, P. L. 183; February 24, 1806, P. L. 340; April 4, 1807, P. L. 124; April 4, 1809, P. L. 163; March 30, 1811, P. L. 140; March 3, 1812, P. L. 69; February 13, 1816, P. L. 52; February 17, 1820, P. L. 24; April 14, 1834, P. L. 333; April 6, 1869, P. L. 16; February 18, 1871, P. L. 87; March 18, 1874, P. L. 46; and March 5, 1775, P. L. 5.

CHAPTER XCIX.

[THE LAW ABOUT THE MANNER OF GIVING EVIDENCE AND AGAINST SUCH AS LIE IN CONVERSATION.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all witnesses coming or called to testify their knowledge in or to any matter or thing in any court or before any lawful authority within the said province or territories, may there give or deliver in their evidence by solemnly promising to speak the truth, the whole truth and nothing but the truth, to the matter or thing in question; and in case any person so called to give in their evidence shall afterwards be convicted of willful falsehood, such person shall suffer and undergo such damage or penalty as the person or persons against whom he or she bore false witness did or should undergo, and shall also make satisfaction to the party wronged, and be publicly exposed for a false witness, never to be credited again in any court or before any magistrate in the said province and territories; and whosoever shall be convicted of lying in conversation shall for every such offense pay half-a-crown, or suffer three days' imprisonment in the House of Correction, at hard labor.]

Passed November 27, 1700; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II.

CHAPTER C.

THE LAW ABOUT APPEALS TO THE PROVINCIAL COURTS.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all trials for titles for land, all actions of debt, accompt or slander, actions personal, and all actions civil and criminal whatsoever (excepting treason, murder, manslaughter, rape, sodomy, buggery, burglary and burning of houses) shall be first heard and tried in the proper county courts by the respective justices; which county courts shall be held and kept quarterly in every county of this province and counties annexed, and oftener if occasion be: which county courts shall be courts of equity, for the hearing and decreeing all matters and causes cognizable in the said courts, under the value of ten pounds. And in case either plaintiff or defendant shall apprehend themselves aggrieved with the verdict of the jury, or judgment of the court, they may appeal to have the cause of complaint heard over and determined by the then next provincial court to be held for the said county: which said appeal shall be granted, provided that the debt or damage in the said judgment be ten pounds or upwards, the appellant giving good and sufficient security to prosecute the said appeal and to pay all costs and damages that shall be awarded.

[Section II.] And it is further enacted, That there shall be five provincial judges appointed by the governor; which judges, or any three of them, shall be a provincial court, and sit twice every year at the town of Philadelphia, on the four-and-twentieth day of the Seventh month, and the tenth day of the Second month, and at least two of the five, every fall and spring yearly, shall go their circuit into every respective county in this government, and there hold a provincial court: on the twenty-eighth day of the Seventh month and the fourteenth day of the Second month in the county of Bucks: and on the second day of

the Eighth month and on the eighteenth day of the Second month at Chester: on the fifth day of the Eighth month and the one-and-twentieth day of the Second month at Newcastle: and on the ninth day of the Eighth month and twenty-fifth day of the Second month in the county of Kent: and on the thirteenth day of the Eighth month and twenty-ninth day of the Second month at Lewes in the county of Sussex, when, where and as often as there shall be occasion; of which occasion notice shall be given by the respective clerks, where such appeals are so granted as aforesaid, under the county seal, directed to the governor for the time being, by the first opportunity after such appeals are granted. Which said circuit courts shall have the hearing and determining of all appeals from the respective county courts both in law and equity grantable by the said county courts. Which judges are also hereby authorized and empowered at the times and places aforesaid to hear and determine treason, murder, manslaughter, rape, sodomy, buggery, burglary and burning of houses in all and every the said respective counties. And that all justices and other officers shall yield due attendance to the said judges during the sitting and continuance of the said provincial court. And the sheriff of every respective county shall meet and attend the judges in and out of their respective bailiwicks, and take care to defray the charge of the said judges; which said judges shall be allowed out of the respective county rates, during their sitting and traveling in that service, ten shillings each for every day.

Passed November 27, 1700; repealed by the Acts of Assembly, passed October 28, 1701, Chapters 105 and 106. No copy of this act can be found in the possession of the Commonwealth; the text here given is from a copy a cited in the transcript of the Acts of November, 1700, and October, 1701, attested by James Logan, and now in the collection of the Historical Society of Pennsylvania.

CHAPTER CI.

[THE LAWS ABOUT THE FORMS OF WRITS.

To the end that plainness and brevity may be used:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all arrests and summons to answer, &c., made according to the following forms, shall be held legal and authentic within this government:

An Arrest.

These are in the King's name to command thee to arrest the body of A. B., if found in thy bailiwick, and him safely keep, and have at the next county court, to be held on the day of the month next, as well to answer the complaint of C. D., as to abide the judgment of the said court: and make return thereof and of thy doing herein at the said court: fail not at thy peril; and for thy so doing this shall be thy sufficient warrant. Given under my hand and seal this day of the month, in the year of the reign of William the Third, *Annoque Domini*.

To the Sheriff of

Summons.

These are in the King's name to require three, A. B., to be and appear at the next county court, to be held at _____ on the _____ day of _____ month next, to answer the complaint of C. D., and thereof fail not at thy peril. Given under my hand and seal this _____ day of the _____ month, in the _____ year of the reign of _____ over England, *Annoque Domini* _____.]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed March 30, 1722-23, Chapter 266; and repealed by the Act of March 20, 1724-25, Chapter 285.

CHAPTER CII.

[THE LAW AGAINST PERSONS JUDGING IN THEIR OWN CAUSE.]

To the end that justice may have its free course in this province or territories:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That no member of a court of justice shall sit in judgment whilst his own cause is upon trial; and if an appeal shall at any time be made from the judgment of the court to the provincial judges, or to the governor and council.

[Section II.] It is hereby further enacted, That no judge or member of [such] council shall sit in judgment upon that appeal.]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon.

CHAPTER CIII.

[THE LAW ABOUT OFFICERS' FEES.]

To prevent extortion in officers, and to reduce the table of fees to a greater certainty:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this province and Territories in General Assembly met, and by the authority of the same, That the clerks' fees shall be:

L.	s.	d.
----	----	----

For all actions entered and withdrawn before the court,

..	6	0
----	---	---

	L.	s.	d.
For every action upon confession of judgment or <i>nihil dicit</i> ,	10	0
For every action coming to trial by jury and judg- ment,	15	0
For every transcript of the records upon appeals, be it more or less,	6	0
For acknowledging a deed in court,	2	0
For entering the appeal and recognizance to prose- cute,	3	0

The fees in the Provincial Court, double of what
is allowed in the county court.

The sheriff's fees shall be:

For every action withdrawn before the court, ...	..	6	0
For every action coming to judgment by confes- sion or verdict, .....	..	10	0
For every execution under twelve pounds, .....	..	6	0
For all sums above twelve pounds, six pence per pound, with the necessary charge of portage and carriage.			

To the sheriff for every cause in the Provincial Court coming in by appeal, .....	..	6	0
To the sheriff for a prisoner discharged in criminal cases, .....	..	15	0
To the clerk, to be paid by the prisoner, .....	..	12	0
To the Attorney-General, to be paid by the pris- oner, .....	..	12	0
To the juries, eight shillings for every cause,.....	..	8	0
To the witnesses, two shillings per diem, .....	..	2	0
To the justices for every cause in court, .....	..	4	0
For a special court,	1	4	0

The coroner shall be allowed as heretofore:
(That is to say)—

For viewing a dead body, .....	..	10	0
A warrant to summon the inquest, .....	..	2	0

	L.	s.	d.
Entering the verdict of the inquest,	1	0
Returning the inquest,	1	0
To the inquest per man,	3	0
Arresting the sheriff or any other person,	3	0

The Master of the Rolls' fees:

For recording the laws and statutes of this province in parchment, and in a fair, close hand, for every line one-half penny, to be paid by the public, with the parchment, per line, .....	..	..	00½
For recording deeds, conveyances and other things which appertain to the Rolls office, he shall have for every line as it stands recorded in a close, fair hand, he finding paper parchment, per line, .....	..	1	0
For a copy of any records, for every line as it stands recorded, .....	..	..	01½
For a search of any roll or record, .....	..	1	6

The Register General's fees shall be as heretofore hath been used: (That is to say)—

For registering every birth, .....	..	..	6
For writing a marriage certificate on parchment,..	..	2	6
For registering the death of any person, .....	..	..	4
For registering the marriage of any person, .....	..	1	0
For registering the name of each servant, the day of his service, the day of payment or freedom,..	..	6	0
For registering a will, .....	..	3	0
For registering a letter of administration,.....	..	5	0

To the justice's clerk:

For every warrant of <i>mittimus</i>, .....	..	1	0
For every recognizance, .....	..	1	0
For every deposition or affidavit, .....	..	1	0
For every certificate or pass, .....	..	1	0

Constable's fees:

For serving a warrant, .....	..	1	0
For traveling charges, a penny per mile for going and a penny per mile for coming, .....	..	..	1

	L.	s.	d.
For his attendance upon every jury,	6
Crier's fees:			
For every action called in court,	9]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed February 28, 1710-11, Chapter 169; May 28, 1715, Chapter 216; March 30, 1722-23, Chapter 270, and August 22, 1752, Chapter 398.

CHAPTER CIV.

[THE LAW ABOUT INDIAN TRADERS.]

Whereas great complaints have been made, that divers persons who are non-residents and unsettled come into this province and privately and clandestinely deal and trade with the Indians; who by reason of their non-residence as aforesaid, and frequent removal from one province to another, are not careful in maintain[ing] a fair correspondence with the said Indians, and often oppress and abuse them in their way of trading and dealing with them; which may provoke and stir up the Indians to a revenge of the said abuses, to the great prejudice and disquietude of the inhabitants of this province, who are fixed therein, and have been instrumental in the settling, promoting and advancing the welfare and well-being thereof:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That no person non-resident, either on shore or on board any vessel (except such as come here with their families with an intent to settle) deal or trade with any Indians within this government upon any pretense whatsoever, upon the forfeiture of five pounds for every such offense, and the goods so

purchased, one-half to go to the public use of the county, and the other half to the discoverer.

[Section II.] And be it further enacted, That no inhabitant within this province and territories from henceforth, under the penalty aforesaid, presume to deal or trade with the Indians in the woods, at their towns or wigwams, after any private or clandestine manner, but at their respective mansion-houses; which said dwelling houses shall be adjudged so to be by the respective court in each county, any law, custom or usage to the contrary notwithstanding.]

Passed November 27, 1700; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly, passed April 8, 1758, Chapter 428, and April 17, 1759, Chapter 438; repealed by the Act of Assembly, passed April 2, 1763, Chapter 499.

At a general Assembly begun and holden at Philadelphia, the fifteenth day of September, and continued by adjournments until the twenty-seventh day of October, A. D. 1701, the following acts were passed:

CHAPTER CV.

THE LAW FOR CONFIRMATION OF THE LAWS OF THIS GOVERNMENT.

We the representatives of the freemen of this province of Pennsylvania and counties annexed, in General Assembly met, at Philadelphia in the said province, seriously considering with what care and application the several general assemblies that have been held in this government since the proprietary's last arrival, have perused the laws of this government for their amendment, explanation and method, in order to be presented to the King for his royal approbation, pursuant to his commands in that behalf, nevertheless we finding that some of the said laws were not sent as wanting a further review as also that some of them which were of great moment to the country were not plainly understood, which has occasioned some doubts and misapprehensions concerning the said laws, for the removal whereof, and to prevent all further objections that may hereafter arise concerning them and the actings and proceedings of the present and former general assemblies of this province and territories, and for the indemnity of all magistrates, officers and other persons that have acted or shall act or officiate by virtue of the said laws:

[Section I.] We humbly desire that it may be enacted, and be it hereby enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all the laws or parts of laws that have been reviewed, amended and passed under the titles hereinafter men-

tioned, and every of them, are and shall be adjudged, deemed and taken to be in force, and are hereby ratified, confirmed and declared to be the laws of this province of Pennsylvania and territories thereunto belonging: (That is to say) The law concerning liberty of conscience (1); An act against riots, rioters and riotous sports, plays and games (2); An act against adultery, fornication, &c. (3); An act against rape or ravishment (4); An act against incest, sodomy, and bestialty (5); An act against bigamy (6); An act against robbing and stealing (7); An act about boats and canoes (8); An act against breaking into houses (9); An act against firing of houses, &c. (10); An act against forcible entry (11); An act against menacing, and assault and battery (12); An act against murder (13); An act against sedition, spreading false news, and defamation (14); An act against removing of landmarks (15); An act against defacers of charters, &c. (16); An act for county seals, and against counterfeiting hands and seals (17); An act for regulating the interest of money (18); An act of privileges to a freeman (19); An act against buying land of the natives (20); An act directing how petty offenses shall be punished (21); An act for the names of days and months (22); An act for the better provision for the poor within this province and territories (23); An act

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1. Passed November 27, 1700, Chapter I.
 2. Passed November 27, 1700, Chapter II.
 3. Passed November 27, 1700, Chapter III.
 4. Passed November 27, 1700, Chapter IV.
 5. Passed November 27, 1700, Chapter V.
 6. Passed November 27, 1700, Chapter VI.
 7. Passed November 27, 1700, Chapter VII.
 8. Passed November 27, 1700, Chapter VIII.
 9. Passed November 27, 1700, Chapter IX.
 10. Passed November 27, 1700, Chapter X.
 11. Passed November 27, 1700, Chapter XI.
 12. Passed November 27, 1700, Chapter XII.
 13. Passed November 27, 1700, Chapter XIII.
 14. Passed November 27, 1700, Chapter XIV.
 15. Passed November 27, 1700, Chapter XV.
 16. Passed November 27, 1700, Chapter XVI.
 17. Passed November 27, 1700, Chapter XVII.
 18. Passed November 27, 1700, Chapter XVIII.
 19. Passed November 27, 1700, Chapter XIX.
 20. Passed November 27, 1700, Chapter XX.
 21. Passed November 27, 1700, Chapter XXI.
 22. Passed November 27, 1700, Chapter XXII.
 23. Passed November 27, 1700, Chapter XXIII.

about recording of deeds (24); An act about binding to the peace (25); An act limiting the presentments of the grand jury (26); An act to ascertain the number of members of assembly, and to regulate the elections (27); The law about attachments (28); An act for naturalization (29); An act for the ascertaining the descent of lands, and better disposition of the estates of persons intestate (30); An act for raising county levies (31); An act directing the attests of several officers and ministers, except the attest of lawyers, attorneys and solicitors (32); An act for the better attendance of the justices on the several courts of judicature within this province and territories (33); An act against jurors absenting, being lawfully summoned, to attend the several courts of judicature within this province and territories (34); An act to prevent immoderate fines (35); An act about defalcation (36); An act for the determining of debts under forty shillings (37); An act against speaking in derogation of courts (38); An act for the apprizeement of goods (39); An act against barrators (40); An act to oblige witnesses to give evidence and to prevent false swearing (41); An act confirming devises of lands and validity of nuncupative wills (42); An act to prevent the grevious sin of cursing and swearing within this province and territories (43); An act

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- 24. Passed November 27, 1700, Chapter XXIV.
 - 25. Passed November 27, 1700, Chapter XXVI.
 - 26. Passed November 27, 1700, Chapter XXVII.
 - 27. Passed November 27, 1700, Chapter XXVIII.
 - 28. Passed November 27, 1700, Chapter XXIX.
 - 29. Passed November 27, 1700, Chapter XXX.
 - 30. Passed November 27, 1700, Chapter XXXI.
 - 31. Passed November 27, 1700, Chapter XXXII.
 - 32. Passed November 27, 1700, Chapter XXXIII.
 - 33. Passed November 27, 1700, Chapter XXXIV.
 - 34. Passed November 27, 1700, Chapter XXXV.
 - 35. Passed November 27, 1700, Chapter XXXVII.
 - 36. Passed November 27, 1700, Chapter XXXVIII.
 - 37. Passed November 27, 1700, Chapter XXXVI.
 - 38. Passed November 27, 1700, Chapter XXXIX.
 - 39. Passed November 27, 1700, Chapter XL.
 - 40. Passed November 27, 1700, Chapter XLI.
 - 41. Passed November 27, 1700, Chapter XLII.
 - 42. Passed November 27, 1700, Chapter XLIII.
 - 43. Passed November 27, 1700, Chapter XLIV.

to prevent all duelling and fighting of duels within this province and territories (44); An act for empowering widows and administrators to sell so much of the lands of intestates as may be sufficient to clear their debts (45); An act for the preservation of the person of the proprietary and governor (46); An act for taking lands in execution for the payment of debts where the sheriff cannot come at other effects to satisfy the same (47); An act for the better regulation of servants in this province and territories (48); An act for erecting and establishing a post office (49); An act for the assize of bread (50); An act for [the] priority of payments to the inhabitants of this government (51); An act for regulating of streets and water courses in the cities and towns of this government (52); An act to empower the justices in each county to lay out and confirm all roads except the King's highways and public roads (53); An act for [the] regulating and maintaining of fences (54); An act for the erecting of bridges and maintaining highways (55); An act against weirs cross creeks and rivers (56); An act against unseasonable firing of woods (57); An act about erecting and regulating the prices of ferries (58); An act for the trial of negroes (59); An act to prevent sickly vessels coming into this government (60); An act requiring all masters and commanders of all ships and vessels to make report at the town of Newcastle that are or shall be bound to and from the sea (61); An act for the levying of fines

44. Passed November 27, 1700, Chapter XLV.

45. Passed November 27, 1700, Chapter XLVI.

46. Passed November 27, 1700, Chapter XLVII.

47. Passed November 27, 1700, Chapter XLVIII.

48. Passed November 27, 1700, Chapter XLIX.

49. Passed November 27, 1700, Chapter L.

50. Passed November 27, 1700, Chapter LI.

51. Passed November 27, 1700, Chapter LII.

52. Passed November 27, 1700, Chapter LIII.

53. Passed November 27, 1700, Chapter LV.

54. Passed November 27, 1700, Chapter LVI.

55. Passed November 27, 1700, Chapter LVII.

56. Passed November 27, 1700, Chapter LVIII.

57. Passed November 27, 1700, Chapter LIX.

58. Passed November 27, 1700, Chapter LX.

59. Passed November 27, 1700, Chapter LXI.

60. Passed November 27, 1700, Chapter LXII.

61. Passed November 27, 1700, Chapter LXIV.

(62); The law about departers out of the province (63); An act against the mixing and adulterating strong liquors (64); The law against scolding (65); The law about killing of wolves (66); An act for the regulating of money weights and stamping the same (67); An act concerning bills of exchange (68); An act appointing the rate of the money or coin within this province and territories, and for preventing the clipping the same (69); An act for regulating weights and measures (70); An act to prevent the sale of ill-tanned leather and working the same into shoes and boots (71); An act for keeping a registry in religious societies (72); An act that no public house or inn within this government be kept without license (73); An act for the ascertaining the dimensions of cask, and for the true packing of meat for transportation (74); An act about cutting timber trees (75); The law against drunkenness and healths-drinking (76); An act for bailing of prisoners and about imprisonment (77); An act against pirates and sea robbers (78); An act for granting an impost upon wines, rum, beer, ale, cider, &c., imported, retailed and sold in this province and territories (79); An act for the raising one penny per pound and six shillings per head, for support of the government and payment of debts and defraying the necessary charges thereof (80); An act for granting and raising to the proprietary and governor the sum of two thousand pounds, upon the clear value of all real

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- 62. Passed November 27, 1700, Chapter LXV.
 - 63. Passed November 27, 1700, Chapter LXVI.
 - 64. Passed November 27, 1700, Chapter LXVII.
 - 65. Passed November 27, 1700, Chapter LXVIII.
 - 66. Passed November 27, 1700, Chapter LXIX.
 - 67. Passed November 27, 1700, Chapter LXXI.
 - 68. Passed November 27, 1700, Chapter LXX.
 - 69. Passed November 27, 1700, Chapter LXXII.
 - 70. Passed November 27, 1700, Chapter LXXIII.
 - 71. Passed November 27, 1700, Chapter LXXIV.
 - 72. Passed November 27, 1700, Chapter LXXV.
 - 73. Passed November 27, 1700, Chapter LXXVIII.
 - 74. Passed November 27, 1700, Chapter LXXX.
 - 75. Passed November 27, 1700, Chapter LXXXI.
 - 76. Passed November 27, 1700, Chapter LXXXII.
 - 77. Passed November 27, 1700, Chapter LXXXIII.
 - 78. Passed November 27, 1700, Chapter LXXXIV.
 - 79. Passed November 27, 1700, Chapter LXXXV.
 - 80. Passed November 27, 1700, Chapter LXXXVI.

and personal estates and upon the polls of all freemen within this province and counties annexed (81); An act for the effectual establishment and confirmation of the freeholders of this province and territories, their heirs and assigns, in their lands and tenements (82) (with this alteration and amendment only in the last recited law: That the proprietary shall have one year's time more for resurveying land than is therein limited, and that where any possessor of overplus land has right by purchase to more than what he has already taken up, such possessor shall have such overplus land, and it shall be deducted out of what he has to take up): An act for erecting a bridge over the creek at Chester in the county of Chester (83); An act about country product to be current pay in the territories of the province of Pennsylvania (84); The law about court proceedings and summons (85); The law about trials by twelve men (86); The law about arrests (87); The law about false imprisonment (88); The law about acknowledging deeds in court (89); The law about seven years' quiet possession (90); The law about summoning of juries (91); The law about the manner of giving evidence, and against such as lie in conversation (92); The law about forms of writs (93); The law against persons judging in their own cause (94); The law about Indian traders (95); The law about officers' fees, except surveyors' fees (96).

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- 81. Passed November 27, 1700, Chapter LXXXVII.
 - 82. Passed November 27, 1700, Chapter LXXXVIII.
 - 83. Passed November 27, 1700, Chapter LXXXIX.
 - 84. Passed November 27, 1700, Chapter XC.
 - 85. Passed November 27, 1700, Chapter XCII.
 - 86. Passed November 27, 1700, Chapter XCIII.
 - 87. Passed November 27, 1700, Chapter XCIV.
 - 88. Passed November 27, 1700, Chapter XCV.
 - 89. Passed November 27, 1700, Chapter XCVI.
 - 90. Passed November 27, 1700, Chapter XCVII.
 - 91. Passed November 27, 1700, Chapter XCVIII.
 - 92. Passed November 27, 1700, Chapter XCIX.
 - 93. Passed November 27, 1700, Chapter CI.
 - 94. Passed November 27, 1700, Chapter CII.
 - 95. Passed November 27, 1700, Chapter CIV.
 - 96. Passed November 27, 1700, Chapter CIII.

And for the prevention of disputes that may arise:
[Section II.] Be it further enacted by the authority aforesaid,
That all laws whatsoever heretofore made, other than the laws
under the titles above expressed, shall be null and void, and
are hereby declared null and void to all intents and purposes.

Passed October 28, 1701; repealed by the Queen in Council, Febru-
ary 7, 1705-6. See Appendix I, Section II.

CHAPTER CVI.

AN ACT FOR ESTABLISHING COURTS OF JUDICATURE IN THIS PROVINCE AND COUNTIES ANNEXED.

For the better and more orderly establishment and regulation
of the courts of justice within this government:

[Section I.] Be it enacted by the Proprietary and Governor, by
and with the advice and consent of the freemen of this Province
and Territories in General Assembly met, and by the au-
thority of the same, That there shall be holden and kept a
county court or sessions four times in every year, in each
county of this province and territories: (That is to say) in the
county of Philadelphia, to begin on the third day of the week,
called Tuesday, in the first week of the months called March,
June, September and December; in the county of Bucks, to
begin on the fourth day, called Wednesday, in the second week
of every the said months; in the county of Chester, at the town
of Chester, to begin on the third day of the last week in the
months called February, May, August and November; in the
county of Newcastle, at the town of Newcastle, to begin on the
third day, called Tuesday, in the months called May, August,
November and February; in the county of Kent, to begin on the
second third day, called Tuesday, in the same months; [and in]
the county of Sussex, at the town of Lewes, to begin on the first
third day, or Tuesday, in the same months, called May, August,
November and February: and that there shall be a competent
number of justices in [every] of the said counties, appointed and
authorized by the governor or his lieutenant for the time being
by commission under the broad seal of the province, to hold the

said county courts or sessions; three of which justices in each county shall be a quorum, who are hereby empowered to deliver the gaols, award process, and hold all manner of pleas of the Crown or criminal causes in the respective counties wherein they shall be commissionated (excepting treason, murder, manslaughter, rapes, sodomy, buggery, burglary and burning of houses); which the provincial judges hereafter mentioned are hereby authorized to hear and determine, and shall award process, call special courts, hold pleas, and hear and determine all actions, suits and causes, civil, personal, real and mixed, observing as near as may be, respecting the infancy of this government and capacities of the people, the methods and practice of the King's court of common pleas in England; having regard to the regular process and proceedings of the former county courts; always keeping to brevity, plainness and verity in all declarations and pleas, and avoiding all fictions and color in pleadings. And as for such causes that may arise between merchants and seamen, which cannot be tied to formality of pleadings and proceedings requisite at common law, it shall and may be lawful to and for the said justices within their respective jurisdictions, as often as there may be occasion, to hear, determine and decree, in a brief [and] summary way, all the said causes between merchants and seamen which are by the laws and usage of the kingdom of England, not within the conusance and proper jurisdiction of the admiralty; and for that purpose the said justices shall cause to come before them twelve indifferent merchants, masters of vessels or ship carpenters, as the case may require; and for want of such, then so many lawful men of the neighborhood as may make up twelve, who are hereby empowered, upon their solemn attestations, to be given them by the court, to hear, examine and make report (according to the best of their understandings) of the matter to the justices, who shall proceed to give judgment or sentence therein accordingly, and to award judicial process or execution thereon as upon judgments at common law.

And further, that the said justices in the respective county courts shall have full power, and are hereby empowered and authorized to hear and decree all such matters and causes of

equity as shall come before them in the said courts, wherein the proceedings shall be by bill and answer, with such other pleadings as are necessary in chancery courts and proper in these parts; with power also for the said justices to force obedience to their decrees in equity, by imprisonment or sequestration of lands, as the case may require.

Provided always, That if any person or persons shall find themselves grieved with any decree or sentence made or given by the said justices, either in equity or upon their summary proceedings aforesaid, it shall and may be lawful to and for him or them so grieved forthwith to appeal or have recourse to the judges of the provincial court, to set forth his or their case by petition, bill or plaint, so as he or they so appealing first pay down the court charges, and either satisfy the decree or sentence so given, or deposit with the justices the sum awarded, or give sufficient security to prosecute the said appeal, and to pay all costs and damages that shall be awarded against him or them; and then, albeit the party appealing be imprisoned upon that decree or sentence, he shall be enlarged; and that such appeals shall supersede all further process in the county court upon the decree or sentence appealed from, till the same be heard and determined in the provincial court.

And moreover that the said justices shall have power, and are hereby empowered and authorized respectively, to do and execute all things relating to the duty and office of justices of the peace according to the laws of this government, with power to hold and keep private sessions as often as they see occasion.

[Section II.] And be it further enacted by the authority aforesaid, That there shall be five provincial judges appointed by the governor or his lieutenant for the time being; which judges or any three of them shall be a provincial court, and sit twice every year at the town of Philadelphia, on the four-and-twentieth day of the Seventh month, and the tenth day of the Second month; and at least two of the five, every fall and spring yearly, shall go their circuit into every of the said counties, and there hold a provincial court, on the twenty-eighth day of the Seventh month and the fourteenth day of the Second month, in the county of Bucks; and on the second day of the Eighth

month and on the eighteenth day of the Second month, at Chester; and on the fifth day of the Eighth month and the one-and-twentieth day of the Second month, at Newcastle; and on the ninth day of the Eighth month and twenty-fifth day of the Second month, in the county of Kent; and on the thirteenth day of the Eighth month and twenty-ninth day of the Second month, at Lewes in the county of Sussex; when, where and as often as there shall be occasion, of which occasion notice shall be given by the respective clerks, where any appeals are made and granted as aforesaid, under the county seal, directed to the governor for the time being by the first opportunity after such appeals are granted, of which the governor is to give notice to the judges respectively; and that the said judges in the said respective provincial courts shall have full power and authority as formerly to hear and determine all treasons, murder[s], manslaughter[s], rapes, sodomy, buggery, burglary and burning of houses, and are hereby empowered and authorized to hear and decree all such matters and causes as by appeal from the respective county courts shall come before them as aforesaid, and thereupon to revoke, make void, alter or confirm such decrees or sentences, acts or proceedings of the said county courts relating thereto, and to make such decrees and take such order therein as shall be agreeable to equity and justice; and that it shall and may be lawful to and for the judges who make any decrees by virtue of this act, to compel and order the execution thereof by imprisonment of bodies or sequestration of any of the lands of such who upon sight or due notice of such decree, or upon service of the judges' decretal, order or judicial process duly proved before one or more of the judges, shall refuse or neglect to comply with or perform the same.

[Section III.] And it is hereby further enacted, That if any person or persons find they have just cause to move in arrest of judgment, they may do so after verdict and before judgment; but if they neglect their motion, and judgment be entered, then, if they intend to avoid such judgment, they may have recourse to the governor for the time being, who without examination of the matter is to grant the party grieved writ or writs of error under the lesser seal of this province, commanding the justices

of the county court where such judgment or judgments are given, to cause the record of the said judgment and proceedings to be brought before the judges at the next provincial court in course. And for writing, sealing and granting of every writ of error, the party shall pay to the secretary six shillings and no more, which writ or writs so obtained shall be brought before one or more of the justices of the county court where such judgment was entered, together with the particular cause or causes of error assigned in writing; and if it shall appear to the said justice or justices that those errors so assigned are errors in law (which is the fault of the justices) and not errors in process, defaults or misprison of clerks, or any other defect, error or insufficiency in the process or pleadings, whereto the plaintiff in the writ of error might have demurred or pleaded in abatement in the county court, nor want of form in any writ, returned bill, plaint, declaration, pleadings, verdict or proceedings, nor any other defect of the like nature mentioned and provided for in the several acts of Parliament, called statutes of jeofails, which shall be redressed, corrected and amended by the justices of the respective county courts aforesaid without any writ of error, that then the said justice or justices before whom the said writ or writs and cause or causes of error be brought as aforesaid, shall allow thereof; provided that the party in whose name the writ of error is brought, with one or more sufficient sureties (such as the said justice or justices do approve of) shall first be bound to the party for whom such judgment is given, by recognizance in double the sum adjudged to be recovered by the said former judgment, conditioned that the plaintiff in the writ of error hath good cause of error and shall follow the same writ with effect; and if the judgment be affirmed in the said writ of error, or that the plaintiff or plaintiffs therein suffer a discontinuance or be nonsuit, then the said plaintiff or plaintiffs in the said writ of error shall pay all the debts, damages and costs adjudged upon the former judgment, and all costs and damages that shall be awarded for delaying execution, whereunto the justice before whom the recognizance is given shall subscribe his hand; and then such justice or justices shall

order the execution to be stayed, if not granted, and to be superseded, if granted and not executed, as the case may require.

[Section IV.] And it is further enacted, That the governor for the time being shall grant the said writs of error, as also writs of *habeas corpus* and all other remedial writs without delay.

[Section V.] And it is further enacted, That the said judges of the provincial courts, or any two of them, shall, in the respective courts where they are concerned from time to time, have power, and are hereby empowered and authorized, to hear and examine all such errors in law as shall be so as aforesaid assigned or found in or upon any such judgment, and thereupon to reverse or affirm the said judgment as the law shall require; and after such judgment reversed or affirmed, the said record shall be remanded to the court from whence it was so as aforesaid removed, that such further proceeding may be [had] thereupon, as well for execution or otherwise, as appertain, according to the direction of the judges.

Provided always, That such reversal or affirmation of any such former judgment, or of the abovesaid decrees or sentences, shall not be so final but that the party grieved therewith may appeal to the King, so that such appellant does deposit the sum or sums recovered or decreed against him, or become bound with one or more sufficient sureties to the party for whom such judgment or sentence is given, by recognizance in double the sum adjudged to be recovered by the sentence, decree or judgment of the said provincial courts; with condition that the person or persons appealing shall, and will within twelve months next after, prosecute his or their appeal in England with effect; and if the judgment or decree be affirmed there, or that the appellant fails in his prosecution of his said appeal within the time aforesaid, then the appellant, or party in whose name the appeal is made, shall pay all the debts, damages and costs adjudged upon the former judgment, sentence or decree and all costs and damages as shall be awarded for the delaying execution, or they the sureties shall do the same for him, whereunto the judges before whom the recognizance is given shall subscribe their hands, and then execution shall stay.

[Section VI.] And it is further enacted, That if any person or persons obtain execution upon any judgment or sentence which shall afterwards be reversed for error in manner aforesaid, the judges who reversed the same shall issue forth their writ or writs to the sheriff or officer that serves such execution, commanding him to restore to the party the lands, goods or chattels so taken in execution, as also to inquire of the damages sustained by reason of such taking; and for the better executing of the powers and jurisdictions hereby granted, it shall and may be lawful to and for the said judges and justices to make and publish all and every such reasonable rules and orders as may be fit and necessary to regulate the officers and ascertain the practice of the respective courts they belong to.

Provided always, That no judges, justices or other persons shall by any means or under any pretense whatsoever make, promote, introduce or suffer any rule, order or practice in any of the said courts that shall exact greater fees than what are or shall be allowed by the general assembly of this government, or which may debar or render any person or persons (who for conscience' sake shall scruple to take an oath in any case) incapable to serve, officiate or act in any office, duty or service whatsoever, in or belonging to the said respective courts.

Provided also, That where the said assembly has not made due provision for any fee or fees for any matter or thing to be acted or done by the officers of the respective courts, then and in such case the judge or justices of the said courts shall and may from time to time (until the assembly shall provide for the same) make, order and appoint all such reasonable fees as the business or matter shall require and deserve.

Provided also, That nothing herein contained shall be deemed or taken to discontinue or avoid any action, suit or process now or hereafter depending in any court of this government, or to vacate or annul any judgment, record, judicial process or proceedings heretofore entered, transacted or done in any of the courts of this government contrary to the methods hereby prescribed.

[Section VII.] And be it further enacted, That the forms of all summons, arrests and attachments heretofore prescribed

and now used shall be observed for the future, and that all writs of execution shall be directed to the sheriff or other officer who is to serve the same, thus:

To A. B. sheriff of the county of or, to A. B. coroner of the county of , greeting, &c. These are by the King's authority to require thee that of the lands and tenements, goods and chattels of C. D. in thy bailiwick, thou cause to be levied (if it be in debt) as well a certain debt of , which E. F. in the county court held at , in the said county recovered against him, as also costs of suit; and have thou that money before the justices at the next county court, to be held at aforesaid, on the day of month next, to render [to] the said E. F. for his debt and costs aforesaid; and have thou there then this writ. Given under my hand, and seal of the said county, the day of the month, *Anno Domini* . Signed by one of the justices.

And so in other actions, changing what is to be changed. And that the writ of restitution above provided for shall be directed as above, and then it shall recite the judgment that is reversed, and conclude thus:

As by inspection into the record, and process aforesaid thereupon, which, before us for cause of error in the same to be corrected was caused to be brought, to us appears of record, which said record and process being seen and by us diligently examined and fully understood, we, for divers errors in the judgment and proceedings aforesaid, have revoked and annulled. And we have further considered that the said J. D. to all things which by occasion of the judgment aforesaid hath lost may be restored; and now on the behalf of the said J. D. we are given to understand that the said (insert here the sum levied by execution) by reason of the judgment aforesaid formerly rendered was levied, and to the said C. D. delivered. Therefore we command thee that if it be so, then without delay thou cause the said A. B. to have full restitution of the said the sum of if the same to the said A. B. thou can cause to be delivered. And as this our precept shall be executed, thou shalt make known to us at the next provincial court, to be held here the day of the month next, with this writ. Given under our hands and seals, the day of the month, *Anno Domini* .

Signed by the judges. And if the sheriff returns that he cannot cause restitution to be made, then there shall a writ be

awarded, commanding the sheriff to take the said C. D. and him safely keep, so that the sheriff have his body before the judges, to restore the said A. B. the said sum with such damages and costs as the court shall assess.

Provided always, That this act, nor anything therein, or in any other act, law or ordinance in this province or territories contained, shall [not] extend or be construed to extend to the annulling or abridging of any proprietary or signiory courts, or any other court or courts, jurisdiction or jurisdictions, privilege or privileges granted, appointed or constituted, or to be granted, appointed or constituted, by William Penn, Proprietary of this province and territories, his heirs and assigns, by virtue of any powers for that purpose to him and them granted by any letters patent or other authorities from or under the King of England.

And for the better establishment and regulation of the Orphans' courts in this government:

[Section VIII.] It is hereby enacted, That the justices of the respective county courts, or a quorum of them, calling to their assistance the Register-General or his deputy for the time being in each county of this province and territories shall have full power, and are hereby empowered, to hold and keep the said Orphans' courts after the business of the county court in spring and fall is ended, or as often as they shall see occasion, in the same places where the respective county courts are held from time to time, with full power to award process, and cause to come before them all and every such person and persons as are or shall be intrusted with, or anyways accountable for, any lands, tenements, goods, chattels or estate belonging or which shall belong to any orphan or person under age, either as guardians, trustees, tutors, executors or administrators, and cause them to make and exhibit within a reasonable time true and perfect inventories and accounts of the said estates, and to require and take bonds and security of such guardians, trustees, tutors, executors and administrators for the legacies, portions, shares and dividends of estates real and personal belonging to orphans or minors as occasion shall require; with power also to make equal distribution of the surplusage of the

said estates as to justice and equity shall appertain, having due regard to the directions and bequests of all last wills and testaments in ordering such distributions, as also to the laws of this government from time to time; with power also to admit orphans and minors when and as often as there may be occasion, to make choice of guardians or tutors, and to appoint guardians, next friends or tutors over such as the said court shall judge too young or incapable according to the rules of the common law to make choice themselves, and to order and direct the binding and putting out of orphans or minors apprentices to trades, husbandry or other employment as shall be thought fit; and that all guardians, *prochains amis* or tutors which shall be appointed by the respective Orphans' courts shall be admitted and received without further admittance to prosecute and defend all actions and suits relating to their pupils, orphans or minors, as the case may require, in any court or courts of this province and counties annexed.

[Section IX.] And it is further enacted, That if any person or persons being duly summoned ten days before the day to be appointed for his or their appearance in the respective Orphans' court[s] to which the summons is returnable, shall refuse or neglect to appear according to summons, or if when they appear do refuse or delay to become bound to bring in their inventories or render accounts as abovesaid, then it shall and may be lawful for the justices of the respective Orphans' courts to issue forth their warrants for arresting and committing the person or persons so refusing or neglecting to the county gaol, where he or they are or can be found, there to remain until they comply with the court's order in that behalf.

Provided always, That those who bring inventories, give bond and make accounts in the Orphans' courts pursuant to this act, shall not be obliged to give bond, exhibit inventories or accounts for the same things or estate to the Register-General's office or elsewhere, but that all persons having the power of probate of wills and granting administrations in this government shall cause all inventories and accounts as shall be brought to them relating to orphans or minors' estates into the respective Orphan's courts as aforesaid, to be filed and kept

there, and shall receive and take the fees due for the same as if they were to be filed, entered, copied and transacted in the Register-General's office.

[Section X.] And it is further enacted, That if any person or persons who shall be so as aforesaid admitted or appointed guardians or tutors to orphans or minors by any of the said Orphans' courts, shall receive and give discharges for any sums of money, debts, rents or dues belonging to such orphan or pupil for whom they are intrusted, such discharges or receipts shall be binding and conclusive to and upon the orphan when he attains his full age, and shall be most effectual in law to discharge the person or persons that takes [sic] the same. And when any orphan is of full age and his guardian or tutor hath rendered his account to the Orphans' court pursuant to the direction[s] of this act, and paid the orphan his full due according to the order of the Orphans' court, then the orphan shall acknowledge satisfaction in the said court; but in case the orphan refuse so to do, then the Orphans' court shall certify how the guardian has accounted and paid, which shall be a sufficient discharge to the guardian, tutor or trustee, executor or administrator who shall so account and pay; and thereupon all bonds entered into or given to the court by the person or persons so discharged shall be delivered up to be canceled, and all recognizances so entered into shall be crossed and discharged; and that all officers concerned in carrying on the affairs of the Orphans' court shall be allowed such reasonable fees for what they do therein as the justices of the said respective courts shall see cause to order, having due regard to the poverty of the orphans and just demerit of what shall of necessity be done in the premises by virtue of these presents.

[Section XI.] And it is further enacted by the authority aforesaid, That all the laws formerly made and now in force concerning the erecting, regulation or jurisdiction of county courts, provincial courts, or Orphans' courts shall, from and after the publication of the laws now made for the establishment and regulation of the said courts, be repealed, and are hereby repealed, annulled and made void to all intents and purposes.

[Section XII.] And be it further enacted by the authority aforesaid, That the sheriff of every respective county shall meet and attend the judges into and out of their respective bailiwicks; which said judges shall be allowed out of the respective county rates, during their sitting and traveling in that service, twenty shillings each for every day, which shall be in lieu of all other charges and provision.

Passed October 28, 1701; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, the Ordinance for Establishing Courts, and the Act of Assembly, passed February 28, 1710-11, Chapter 168.

CHAPTER CVII.

AN ACT DIRECTING THE PUNISHMENT OF LARCENY UNDER FIVE SHILLINGS.

Whereas by the seventh law of this government, made at Newcastle in the year one thousand seven hundred,¹ the punishment for stealing is very severe, and the manner of prosecuting such offenders may be tedious, as also very chargeable; for the preventing whereof:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person within this government shall at any time hereafter steal any goods whatsoever, under the value of five shillings, it shall and may be lawful for any justice, before whom such offender shall be brought, upon proof thereof to punish such person or persons by ordering him or her to be publicly whipped upon his or her bare back, not exceeding fifteen lashes, and restore the goods to the party wronged, or pay the value thereof; and also shall [sic] pay the charge of whipping and prosecution, any act or law in this government to the contrary in anywise notwithstanding.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II; repealed by an Act of Assembly, passed May 31, 1718, Chapter 236.

¹ Passed November 27, 1700, Chapter 7.

CHAPTER CVIII.

AN ACT ABOUT ATTACHMENTS UNDER FORTY SHILLINGS.

Whereas by the twenty-ninth law¹ of this government, made at Newcastle in the year one thousand seven hundred, it was enacted, that the justices of the respective counties should grant writs of attachment, which were to be served by the sheriffs or coroners, but forasmuch as by that law no attachments can be granted for a debt under forty shillings; which could it be, the charges thereof would amount to more than the debt itself before the creditor receives the same; therefore, for the ease and benefit of the people:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person shall absent him or herself out of this government, not taking care to satisfy and pay his or her just debts, it shall and may be lawful for any justice of the peace where such person's effects are, to grant a writ of attachment for any debt under forty shillings, directed to the constable, to attach the goods and chattels or other effects of such person to answer the creditor: and if he or she shall make proof of his or her said debt, the justice shall award execution for the same; to be executed by the constable, who shall have two shillings for serving the writ of attachment, and three shillings for serving the execution; which said goods or other effects shall be brought to an appraisement, but not sold until the expiration of three months next after, to the end that the debtor may have time to redeem them if he see cause, any act or law in this government to the contrary in anywise notwithstanding.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed March 2, 1723, Chapter 263; repealed by the Act of Assembly, passed August 22, 1752, Chapter 399.

¹ Act of Assembly, passed November 27, 1700, Chapter 29.

CHAPTER CIX.

AN ACT FOR THE PREVENTING OF CLANDESTINE MARRIAGES.

For the preventing of clandestine, loose and unseemly proceedings in marriage within this province and counties annexed:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That all marriages not forbidden by the law of God shall be encouraged; but the parents or guardians shall (if conveniently they can) be first consulted with, and the parties' clearness of all engagements signified by a certificate from some credible person where they have lived or do live, produced to such religious society to which they relate, or to some justice of the peace of the county in which they live; and by their affixing their intentions of marriage on the court-house or meeting-house doors in each respective county where the parties do reside or dwell, one month before solemnization thereof; the which said publication, before it be so affixed as aforesaid, shall be brought before one or more justices of the peace in the respective counties to which they respectively belong; which justice shall subscribe the said publication, witnessing the time of such declaration and date of the said publication, so to be affixed as aforesaid. And that all marriages shall be solemnized by taking each other for husband and wife before twelve sufficient witnesses; and the certificate of their marriage, under the hands of the parties, and witnesses at least twelve, and one of them a justice of the peace, shall be brought to the register of the county where they are married, and registered in his office. And if any servant or servants shall procure themselves to be married without consent of his or her master or mistress, such servant or servants shall, for such their offense, each of them serve their respective master or mistress one whole year after the time of their servitude by indenture or engagement is expired. And if any person being free

shall marry with a servant as aforesaid, he or she so marrying shall pay to the master or mistress of the servant, if a man, twelve pounds, and if a woman, six pounds, or one year's service; and the servant so being married shall abide with his or her master or mistress according to indenture or agreement, and one year after as aforesaid. And if any persons shall presume to marry, or be witnesses to any marriage, contrary to this act, such persons so married shall forfeit twenty pounds to the proprietary and governor; and the witnesses being present at such marriage shall forfeit and pay each of them five pounds, to the use of the proprietary and governor as aforesaid; and pay damages to the party grieved, to be recovered in any court of record within this government.

Provided, That this law shall not extend to any who shall marry or be married in the religious society to which they belong, so as notice shall be given by either of the parties to the parents, masters, mistresses or guardians, one full month at least before any such marriage be solemnized.

[Section II.] And it is further enacted by the authority aforesaid, That no license or dispensation shall hinder or obstruct the force or operation of this act, in respect of notice to be given to parents, masters, mistresses or guardians as aforesaid.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1706-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed February 14, 1729-30, Chapter 311; supplied by the Acts of Assembly, passed June 25, 1885, P. L. 146; and May 23, 1887, P. L. 170.

CHAPTER CX.

AN ACT FOR PREVENTING ACCIDENTS THAT HAPPEN BY FIRE IN THE TOWNS OF BRISTOL (FORMERLY CALLED BUCKINGHAM), PHILADELPHIA, GERMANTOWN, DERBY, CHESTER, NEWCASTLE AND LEWES WITHIN THIS GOVERNMENT.

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if within ten days after the publication

hereof, any person or persons within any of the said towns set on fire their chimneys to cleanse them, or shall suffer them or any of them to be so foul as to take fire and blaze out at the top, and be duly convicted thereof by two credible persons of the neighborhood before some one justice of the peace, such person or persons shall forfeit, for every such offense, forty shillings.

And for the further securing of houses and preventing of fire from destroying them in the said towns:

[Section II.] Be it enacted by the authority aforesaid, That every owner or tenant of every dwelling house within the said towns shall, within ten days after the publication hereof, provide and keep in or by his or her house a swab, at least twelve or fourteen feet long, as also two leather buckets, within six months at farthest after the publication aforesaid, to be always ready against accidents of fire, under the penalty of ten shillings for every respective neglect thereof, to be convicted as aforesaid.

[Section III.] And be it further enacted, That if any person shall presume to smoke tobacco in the streets of Philadelphia, either by day or night, [he] shall forfeit, for every such offense, twelve pence; all of which said fines shall be paid to the respective justices of each town for the use of the town, and are to be employed for buying and providing leather buckets, hooks and other instruments and engines against fires, for the public use of each town respectively.

[Section IV.] And be it further enacted by the authority aforesaid, That no person [sic] within the town of Philadelphia, after six months next following the publication hereof, presume to keep in their houses, shops or warehouses more than six pounds of gunpowder at one time, unless it be forty perches distant from any dwelling house, under the penalty of ten pounds for every such offense, to the use aforesaid, to be convicted in manner above expressed.

[Section V.] And it is hereby further enacted, That it shall and may be lawful for any one or more of the justices of the town of Philadelphia to procure or cause to be made four or six good, sufficient hooks for pulling down houses in case of fire

(the said justice or justices taking to his or their assistance two or more of the skillful freeholders for that purpose). The said hooks to be paid for out of the fines that shall or may accrue by this act; or for want thereof, out of any other money that is or shall be raised in Philadelphia for the use of the said town.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix 1, Section II. The first section of this act is repealed and supplied by the Acts of Assembly, passed August 28, 1721, Chapter 245; February 6, 1730-31, Chapter 322; February 9, 1750-51, Chapter 388, and September 29, 1787, Chapter 1318. The fourth section is repealed by the Acts of Assembly, passed August 14, 1725, Chapter 287; May 8, 1747, Chapter 372, and March 20, 1856, P. L. 137. The second and fifth sections are supplied by the acts incorporating the boroughs, towns and cities specified.

CHAPTER CXI.

AN ACT AGAINST SWINE RUNNING AT LARGE IN SEVERAL OF THE TOWNSHIPS WITHIN THIS GOVERNMENT.

Whereas by a law made at Newcastle in the year one thousand seven hundred, entitled "An act for the preventing of swine running at large,"¹ it was enacted under severe penalties that swine should be restrained from running at large in several of the townships and limits therein mentioned, without rings and yokes, which law the inhabitants by their representatives in this assembly complain against as being injurious to the people and destructive of their creatures, whereby subsistence for their families could reasonably be expected, and therefore do desire that it may be repealed:

[Section I.] Be it therefore enacted, and it is enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That the said law made at Newcastle as aforesaid be repealed, and it is hereby repealed, any law in this government to the contrary notwithstanding.

And whereas several of the inhabitants of the townships hereafter mentioned conceive themselves much injured by the running of swine at large therein, and desiring by their repre-

¹ Passed November 27, 1700, Chapter LXXVII.

sentatives in this assembly that the same for the future be prevented:

[Section II.] Be it therefore enacted by the authority aforesaid, and it is hereby enacted, That no person or persons inhabiting within the reputed bounds of Philadelphia between Delaware and Schuylkill rivers, or within the town bounds of Chester or Newcastle, shall suffer any swine, hogs, sows, shoats or pigs to go at large within the streets or bounds of the said towns, on penalty of forfeiting all such swine, hogs, sows, shoats and pigs, one-third part thereof to the use of the proprietary and governor, one-third to the taker up thereof, and the other third to the use of the poor of the county where the same shall be so taken up. And if any swine, hogs, sows, shoats or pigs belonging to any person living out of the said town bounds as hereafter mentioned, shall be found at large within the said bounds of the said respective towns, the owner or owners thereof shall forfeit and pay for every such swine, hog, sow, shoat or pig so found the sum of twelve pence to the use of the taker up thereof; hereby [sic] empowering the justices of each respective county court to nominate and appoint a beadle or officer to put this law in execution in such method as they from time to time shall think fit, to the uses aforesaid. That part of the bounds of Philadelphia hereby intended is the north and south ends of the said town, running in a straight line on each side from the river Delaware to Schuylkill. The town bounds of Chester are intended to be between the King's road and Delaware River, extending from Chester Creek to Ridley Creek; and the town bounds of Newcastle hereby intended is the said town as laid out with the marsh adjoining.

[Section III]. And be it further enacted by the authority aforesaid, That if any person or persons within the counties of Bucks, Philadelphia and Chester shall suffer any swine, hogs, shoats, sows or pigs to go without yokes on their necks and be found in any person's inclosure or fenced field, the owner of such swine, hog, shoat, sow or pig shall be subject to make good and pay double damages to the party wronged thereby.

Passed October 28, 1701; repealed by the Queen in Council, February 7, 1705-6. See Appendix I, Section II, and the Act of Assembly, passed January 12, 1705-6, Chapter 158.

CHAPTER CXII.

AN ACT FOR THE DESTRUCTION OF BLACKBIRDS AND CROWS.

Whereas it manifestly appears by the innumerable quantities of blackbirds and crows that continually haunt in this province and territories, to the great prejudice, hurt and annoyance of the inhabitants thereof, being very destructive to all sorts of corn and grain that is [sic] raised therein, so that people's labor is much destroyed thereby, and that the people may for the future be the better encouraged in their labor and industry, by destroying of such birds, thereby to hinder their great increase:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That whosoever shall at any time hereafter kill either blackbirds or crows shall, for all such blackbirds that he or they shall so kill, have three pence the dozen; and for every crow three pence.

Provided, That such person or persons do and shall bring the heads of all such blackbirds or crows to such person or persons as shall, by the respective county courts in each county within this province and territories, be appointed to receive and take an account of the same; which said county courts are hereby empowered and required yearly to appoint, from time to time, as many persons as they think convenient for that service. And that such person or persons who shall be appointed to receive and take an account of all such blackbirds and crows as aforesaid, shall have and receive for the same after the rate of ten per cent. All which said sum or sums of money, as the same shall amount unto, shall be defrayed and paid out of the public stock; to be levied and raised in such manner and form in each county as other public charges of this government are used to be raised and discharged.

Provided, That all and every such person and persons who are so appointed to receive and take account of the heads of all

such blackbirds and crows that shall be brought to them by the inhabitants as aforesaid, be attested to the faithful discharge of their duty therein, and to keep an exact account thereof which account shall be deemed good and effectual. And that such persons shall yearly bring in their accounts to the court and grand jury at such times as is by law appointed for calculating the public charges of the county.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Act of Assembly, passed March 20, 1724-5, Chapter 284; repealed by the Act of Assembly, passed March 20, 1810, P. L. 188.

CHAPTER CXIII.

AN ACT FOR THE SALE OF THE COURT-HOUSE AND PRISON IN THE COUNTY OF CHESTER.

Whereas the grand jury of the said county have petitioned that a law might be made for the selling of the court-house and prison lately ruined by fire, and the lot thereunto belonging being too strait for such a public building:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and consent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That any four justices of the peace of the said county of Chester for the time being (the first in commission being one) shall and are hereby enabled and empowered by their deed or deeds, under their hands and the seal of the said county, to sell, make over and convey the court-house and prison with the land thereunto belonging, in the town of Chester, in the county aforesaid, to such person or persons as the said justices shall see meet (and the value or price thereof shall be paid into the public stock of the said county for the use of the same as the law directs, and to no other use whatso-

ever) they publicly exposing the same by an open vendue in the said town of Chester, giving public notice thereof at least ten days before such sale be made; and such sale when so made shall and is hereby made good to the purchaser or purchasers, to all intents and purposes and to his and their heirs and assigns forever.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, and the Acts of Assembly passed January 12, 1705-6, Chapter 165, and May 9, 1724, Chapter 278.

CHAPTER CXIV.

AN ACT AGAINST SELLING RUM AND OTHER STRONG LIQUORS TO THE INDIANS.

Whereas our proprietary and governor and the representatives of the freemen of this province and territories in General Assembly met are still desirous to induce the Indian nations to the love of the Christian religion, by the gentle, sober and just manners of professed Christians (under this government) towards them; and it being too obvious that divers persons within this province have used and practiced the selling of rum, brandy and other strong liquors in such quantities to the Indians, many of whom are not yet able to govern themselves in the use thereof (as by sad experience is too well known) that they are generally apt to drink to great excess, whereby they are not only liable to be cheated, and reduced to great poverty and want, but sometimes inflamed to destroy themselves and one another, and terrify, annoy and endanger the inhabitants: and forasmuch as several sachems or sachemucks, kings of the Indian nations, have, in their treaties with the proprietary and governor, earnestly desired that no European should be permitted to carry rum to their towns, because of the mischiefs, before expressed: and since these evil practices plainly tend to the great dishonor of God, scandal of the Christian religion,

and hindrance to the embracing thereof, as well as drawing the judgments of God upon the country, if not timely prevented: for the prevention whereof for the future:

[Section I.] Be it enacted by the Proprietary and Governor, by and with the advice and assent of the freemen of this Province and Territories in General Assembly met, and by the authority of the same, That if any person inhabiting in this province, or others, shall, after the publication hereof, directly or indirectly sell, barter, give or exchange by themselves or others any rum, brandy or other spirits, mixed or unmixed, to or with any Indians within this province, and be lawfully convicted thereof, [he] shall, for every such offense, forfeit ten pounds, one-half to the use of the county wherein he is convicted, and the other half to the discoverer and prosecutor; to be recovered in any court of record within this government, any law, usage or custom to the contrary in anywise notwithstanding.

And whereas it hath been very difficult to prevent this evil, for want of proof against the offenders, because they privately deal with the Indians, and very often back in the woods, out of the view of any but themselves:

[Section II.] Therefore be it enacted by the authority aforesaid, That the evidence of one professed Christian, with other probable circumstances to the satisfaction of the court and jury, shall be sufficient to convict the offenders herein.

[Section III.] And be it further enacted by the authority aforesaid, That all rum, brandy or other strong liquors that shall be carried or offered to sale or disposal to or at any of the Indian towns or habitations, within the bounds of this province, the same shall be forfeit, and is hereby declared to be forfeited, one-third to the governor, and two-thirds to such person or persons as shall seize the same. And all persons (as well Indian as others) are hereby empowered to seize and secure all such rum, brandy or other strong liquors so found at any Indian towns or settlements as aforesaid.

And whereas some persons in this province have heretofore taken match-coats, guns, kettles and other necessaries of hunting and clothing in pawn from the Indians, whereby (being disabled to hunt) they have been deprived of a necessary subsistence; for prevention whereof for the future:

[Section IV.] Be it enacted by the authority aforesaid, That no person within this province shall at any time hereafter take or receive of any Indian any pawn whatsoever for any rum, brandy or other strong liquors, or other goods, under any pretense whatsoever, under the penalty of forfeiting of such pawn to the Indian or Indians so pawning the same as aforesaid, over and above the fine of ten pounds aforesaid; the said pawn, forfeited as aforesaid, to be seized by warrant from the next justice of the peace, directed to the constable of the place where such offenders shall live, upon complaint and sufficient proof made thereof to him as aforesaid.

Passed October 28, 1701; allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, February 7, 1705-6, and not acted upon. See Appendix I, Section II, supplied in part by the Act of Assembly passed May 22, 1722, Chapter 256, and wholly by Federal legislation under the provision of the Constitution of the United States vesting in Congress the right to regulate Indian affairs.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1705, and continued by adjournments until the twelfth day of January, 1705-6, the following acts were passed:

CHAPTER CXV.

THE LAW CONCERNING LIBERTY OF CONSCIENCE.

Almighty God being the only Lord of Conscience, Author of all divine knowledge, faith and worship, who can only enlighten the minds and convince the understanding of people, in due reverence to His sovereignty over the souls of mankind, and the better to unite the Queen's Christian subjects in interest and affection:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person now or at any time hereafter dwelling or residing within this province, who shall profess faith in God the Father and in Jesus Christ, His only Son, and in the Holy Spirit, one God blessed forevermore, and shall acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration, and when lawfully required, shall profess and declare that they will live peaceably under the civil government, shall in any case be molested or prejudiced for his or her conscientious persuasion; nor shall he or she be at any time compelled to frequent or maintain any religious worship, place or ministry whatsoever contrary to his or her mind; but shall freely and fully enjoy his or her Christian liberty in all respects without molestation or interruption.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 28, 1715, Chapter 204.

CHAPTER CXVI.

AN ACT AGAINST MURDER AND MANSLAUGHTER.

[Section 1.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person within this province shall willfully and premeditately kill another person or willfully and premeditately be the cause of or accessory to the death of any person, such person guilty as aforesaid shall suffer death; and one-half of his the said criminal's estate shall remain to his wife and children; and in case he leave no wife nor children, then to the next of his kindred, not extending lower than the second degree, to be claimed within three years after the criminal's death [sic]; and the other half of his estate shall be forfeited to the proprietary and governor for the support of government and the contingent charges thereof. And if any person shall be legally convicted of manslaughter, he or she shall forfeit his or her whole personal estate, one-half to the proprietary and governor for the support of government and the contingent charges thereof, and the other half to the relict and next of kin to the party deceased; and shall suffer imprisonment one whole year at hard labor. And whosoever shall be convicted of chance medley or other homicide by misadventure, he or she shall suffer the loss of one-half of his or her goods and chattels, one moiety to the proprietary and governor for the support of government, and the other to the relict or next of kin to the party deceased; and for want of such estate shall pay twenty pounds to the use aforesaid, and shall suffer one year's imprisonment at hard labor.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 31, 1718, Chapter 236 and the note thereto.

CHAPTER CXVII.

AN ACT AGAINST BURGLARY.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That whosoever shall break into any mansion-house, whether inset or outset, edifices or buildings within this province with intent to commit felony, shall be publicly whipped with twenty-one stripes on his or her bare back, well laid on, and suffer six months' imprisonment at hard labor; and shall moreover make fourfold satisfaction for what he or she shall be proved to have taken out of the said mansion-house or building; and if unable to make such satisfaction, then he or she shall make satisfaction by servitude for the same as the court shall adjudge. And if such offense shall be committed in the night time the offender shall be whipped and make satisfaction as aforesaid, and suffer twelve months' imprisonment at hard labor and be branded on the forehead with the letter T; and for the second offense shall suffer imprisonment during life.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 31, 1718, Chapter 236 and note thereto.

CHAPTER CXVIII.

AN ACT AGAINST ROBBING AND STEALING.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of

the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person shall be legally convicted of stealing or fraudulently and feloniously taking or carrying away of any living goods or cattle from any the inhabitants or others within this province, and the same goods or cattle stolen be found alive and returned to the owner at his or her dwelling house, the felon shall make double satisfaction besides the goods returned; and if the goods or cattle be not found and returned to the owner thereof, then the felon shall make fourfold satisfaction, and the justices at the court of quarter-sessions where such felon shall be convicted shall order the felon to be publicly whipped, not exceeding twenty-one lashes, besides such satisfaction as aforesaid, and to wear a Roman T for six months as hereafter is expressed. And in case the goods stolen be dead goods or merely personal goods, and not restored as aforesaid, and being under the value of five shillings, the felon or thief shall pay to the owner thereof fourfold; but if the goods so stolen amount to the value of five shillings or upwards, then the felon or thief shall pay unto the owner fourfold, and be whipped on his or her bare back, not exceeding twenty-one lashes, and be ordered by the court to wear a mark or badge of their thievery upon the outside of his or her outer garment in open view upon the outer part of the left arm betwixt the elbow and the shoulder, at all times when he or she shall travel or be seen from his or her habitation or plantation where he or she shall live on every day from sun rising to sun setting, for the space of six months; which mark or badge of his or her thievery shall be a Roman T, not less than four inches in length each way and an inch in breadth, of a different color from his or her outer garment, either red, blue or yellow, as the justices of the said court shall direct. And if such felon or thief shall at any time during the said term of six months be found without the said badge or mark of thievery, any one justice of the peace, upon his own knowledge or proof of others, shall order such felon or thief to be whipped, for the first offense, not exceeding twenty-one lashes; and for the second offense, he or she offending as aforesaid shall receive

thirty-nine lashes upon his or her bare back, well laid on, and be branded with the letter T on the forehead, or be banished out of this government, never to return again upon such penalty as the court shall think fit to lay upon such persons.

And if any person shall be lawfully convicted of robbery, he or she shall be punished, for the first offense as for stealing by this act, and be branded on the forehead with the letter T; and for the second offense shall be imprisoned at hard labor during life to the behoof of the public.

And for the prevention of concealment or connivances of thievery:

[Section II.] Be it enacted by the authority aforesaid, That if any person or persons shall agree or compound to take satisfaction for any stealing or goods stolen, such person shall forfeit twice the value of the sums agreed for or taken. But no person shall be debarred from taking his goods back which are stolen, provided he prosecute the felon.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed March 27, 1712-13, Chapter 198. Repealed by the Act of May 31, 1718, Chapter 236.

CHAPTER CXIX.

AN ACT TO RESTRAIN PEOPLE FROM LABOR ON THE FIRST DAY OF THE WEEK.

To the end that all people within this province may with the greater freedom devote themselves to religious and pious exercises:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That according to the example of the primitive Christians, and for the ease of the creation, every First day of the week, commonly called Sunday, all people shall abstain from toil and labor;

that whether masters, parents, children, servants or others, they may the better dispose themselves to read and hear the Holy Scriptures of Truth at home, and frequent such meetings of religious worship abroad as may best suit their respective persuasions. And that no tradesman, artificer, workman, laborer or other person whatsoever shall do or exercise any worldly business or work of their ordinary callings on the First day or any part thereof (works of necessity and charity only excepted) upon pain that every person so offending shall, for every offense, forfeit the sum of twenty shillings, to the use of the poor of the place where the offense was committed; being thereof convicted before any justice (either upon his view, confession of the party, or proof of one or more witnesses), and the said justice shall give a warrant, under his hand and seal, to the next constable where such offense shall be committed, to levy the said forfeiture or penalty by distress and sale of the offender's goods and chattels, rendering to the said offender the overplus of the moneys raised thereby.

Provided always, That nothing in this act contained shall extend to prohibit the dressing of victuals in families, cook-shops or victualling-houses, or to watermen landing their passengers on the First day of the week; nor to butchers their killing and selling of meat, or fishermen from selling fish on the morning of the First day of the week, in the Fourth, Fifth and Sixth months, called June, July and August, nor to the crying of milk before nine of the clock in the morning, or after five in the afternoon.

Provided also, That no person shall be impeached, presented or molested for any offense before mentioned in this act, unless he or they be prosecuted for the same within ten days after the offense committed.

[Section II.] And be it further enacted by the authority aforesaid, That no person or persons on the First day of the week shall serve, execute or cause to be served or executed, any writ, precept, warrant, order, judgment or decree (except in case of treason, felony or breach of the peace), but that the serving of any such writ, precept, warrant, order, judgment or decree shall be void to all intents and purposes whatsoever; and the person

or persons so serving or executing the same shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, precept, warrant, order, judgment or decree at all.

[Section III.] And be it further enacted [by the authority aforesaid], That all persons who are found drinking and tippling in ale houses, taverns or other public-house or place on the First day of the week, commonly called Sunday, or any part thereof, shall, for every offense, forfeit and pay one shilling and six pence to any constable that shall demand the same; to the use of the poor. And all constables are hereby empowered, and by virtue of their office required to search public-houses and places suspected to entertain such tipplers, and them when found quietly to disperse; but in case of refusal, to bring the persons so refusing before the next justice of the peace, who may commit such offenders to the stocks, or bind them to their good behavior, as to him shall seem requisite. And the keepers of such ale-houses, tavern or other public-house or place as shall countenance or tolerate any such practices, being convicted thereof by the view of a single magistrate, his own confession, or the proof of one or more credible witnesses, shall, for every offense, forfeit and pay ten shillings, to be recovered as and for the uses abovesaid.

Provided always, That nothing in this act be construed to prevent victualling-houses or other public-house or place from supplying the necessary occasion of travelers, inmates, lodgers or others on the First day of the week with victuals and drink in moderation, for refreshment only; of which necessary occasion for refreshment, as also moderation, the magistrate before whom complaint is made shall be judge, any law, usage or custom in this province to the contrary notwithstanding.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed April 9, 1760, Chapter 456; March 30, 1779, Chapter 838; April 22, 1794, Chapter 1758; March 25, 1805, P. L. 159; April 22, 1829, P. L. 226; April 11, 1845, P. L. 364; February 26, 1855, P. L. 53; April 17, 1855, P. L. 227; April 29, 1867, P. L. 95; April 2, 1873, P. L. 58; April 28, 1873, P. L. 886; May 1, 1873, P. L. 89; May 5, 1876, P. L. 104; June 3, 1878, P. L. 160; May 13, 1887, P. L. 108.

CHAPTER CXX.

AN ACT AGAINST RAPE OR RAVISHMENT.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That whosoever shall be convicted of having committed a rape upon any maid or woman within this province, shall receive on his bare back, well laid on, at the common whipping-post, thirty-one lashes, and shall be imprisoned seven years at hard labor. And in case such person so convict be single and unmarried, he shall forfeit all his estate; and if married, one-third part thereof, one-half of such forfeiture to the proprietary and governor for the support of government and the necessary charges thereof, and the other half to the use of the poor of the place where the said offense is committed. And for the second offense he shall be branded on the forehead with the letter R, and shall suffer imprisonment during life at hard labor.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 31, 1718, Chapter 236, and the note thereto.

CHAPTER CXXI.

AN ACT AGAINST INCEST.

For the preventing of incestuous marriages within this province:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of

the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all marriages hereafter made, being within the degrees of consanguinity or affinity according to the following table, are hereby declared to be void to all intents and purposes; and it shall and may be lawful for the governor for the time being to grant a divorce from the bonds of matrimony, and the parties shall be fined to the value of one-third part of their estates.

And if any person or persons shall be convicted of incestuous fornication or adultery, he, she or they so convicted shall suffer such punishments as are by law against fornication and adultery, and be fined to the value of one-third part of their estates; to be paid by the proprietor and governor for the time being, for the support of government and defraying the contingent charges thereof.

The table of degrees of consanguinity and affinity is as follows:

Degrees of consanguinity.	Degrees of affinity.
A man may not marry his mother	A man may not marry his father's wife
his father's sister	his son's wife
his mother's sister	his son's daughter
his sister	his wife's daughter
his daughter	the daughter of his wife's son or daughter
the daughter of his son or daughter	
A woman may not marry her father	A woman may not marry her mother's husband
her father's brother	her daughter's husband
her mother's brother	her husband's son
her brother.	the son of her husband's son or daughter
her son	
the son of her son or daughter	

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and Acts of Assembly passed September 23, 1791, Chapter 1583; March 13, 1815, P. L. 150. Repealed by the Act of March 31, 1860, P. L. 427.

CHAPTER CXXII.

AN ACT AGAINST ADULTERY AND FORNICATION.

For the preservation of virtue, chastity and purity amongst the inhabitants of this province, and prevention of the heinous sins of adultery and fornication:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person or persons shall commit adultery, and be thereof legally convict, such person or persons shall, for the first offense, receive on his or her bare back, twenty-one lashes well laid on, at the common whipping-post and suffer imprisonment for one whole year at hard labor, or be fined fifty pounds, one-half to the use of the governor, and the other half to the use of the poor, at the election of the party offending. And the injured husband or wife shall have a bill of divorce from board and bed, granted him or her by the governor or lieutenant-governor for the time being, if required within one year after conviction. And if such person or persons shall offend a second time, and shall again be thereof convicted, such person or persons shall receive on his or her bare back twenty-one lashes at the common whipping-post, and be imprisoned seven years at hard labor, or pay one hundred pounds as aforesaid; and for the third and every offense after, the same punishment, and be branded on the forehead with the letter A.

[Section II.] And be it further enacted by the authority aforesaid, That if any person or persons shall commit fornication, and be thereof legally convicted, such person or persons shall receive twenty-one lashes on his or her bare back well laid on, at the common whipping-post, or otherwise shall forfeit and pay to the proprietary and governor, for the support of the government of this province and defraying the contingent charges

thereof, the sum of ten pounds, at the election of such person so convicted as aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That any single or unmarried woman having a child born of her body, the same shall be sufficient proof to convict such single or unmarried woman of fornication; and the man by such woman charged to be the father of such child shall be the reputed father; and she persisting in the said charge in the time of her extremity of labor, or afterwards in open court upon the trial of such person so charged, the same shall be given in evidence in order to convict such person of fornication.

[Section IV.] And be it further enacted by the authority aforesaid, That if any married woman within this province shall be convicted of having a child born of her body in the absence of her husband, and shall not be able by credible evidence to prove that her husband has cohabited or been in company with her, or has been in some of the Queen's colonies or plantations in this continent, betwixt the easternmost parts of New England and the southernmost parts of North Carolina, within twelve months next before the birth of such child, such woman shall be punished as an adulteress.

[Section V.] And be it further enacted by the authority aforesaid, That if an unmarried woman, absenting herself from the place where she usually lived, shall come into any county within this government and there bear a bastard child, she shall be liable to be punished in the county where the said child is born, as she should or might have been had the child been there begotten. And whosoever within this government shall knowingly entertain or shelter any such woman without giving notice thereof to some one justice of the peace within three days after her coming into his or her house to lodge, shall forfeit five pounds for every such offense.

Provided always, That the judgment or sentence against such married woman shall not be put in execution till after the expiration of twelve months next after such her conviction, and she shall remain in prison during that time, unless she give security to abide the judgment. And in case her husband shall within the said term come and declare that he had cohabited

with his wife within the said term of twelve months next before the birth of the said child, and own and declare himself to be the father thereof, execution shall be stopped, and the woman discharged.

[Section VI.] And be it further enacted by the authority aforesaid, That if any single woman, being a servant by indenture or covenant, have a bastard child within the time of her servitude, she shall serve such further time beyond the term of her indenture or covenant mentioned as the justices of the peace in their quarter-session shall think fit, as a compensation to her master or mistress for the loss and damage they had sustained by reason of her bearing such bastard in the time of her servitude: provided it be not more than two years nor less than one.

[Section VII.] And be it further enacted by the authority aforesaid, That every person, being legally convict to be the reputed father of a bastard child, shall give security to the court, town or place where such child was born, to perform such order for the maintenance of such child as the justices of the peace in their sessions shall direct and appoint.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed January 12, 1705-6, Chapter 121; May 31, 1718, Chapter 236; March 21, 1772, Chapter 662; January 28, 1777, Chapter 737; September 19, 1785, Chapter 1187; September 15, 1786, Chapter 1241; April 5, 1790, Chapter 1516; September 23, 1791, Chapter 1583; April 22, 1794, Chapter 1777; April 18, 1795, Chapter 1861; April 4, 1799, Chapter 2051; March 21, 1806, P. L. 570; April 25, 1860, P. L. 575, and March 31, 1860, P. L. 392. Repealed by the Act of March 31, 1860, P. L. 451.

CHAPTER CXXIII.

AN ACT AGAINST BIGAMY.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in Gen-

eral Assembly met, and by the authority of the same, That whosoever shall be convicted of having two wives or two husbands at one and the same time, shall be whipped on his or her bare back thirty-nine lashes, and be imprisoned during life at hard labor, and the second marriage shall be void. And if any man or woman being unmarried shall knowingly marry the husband or wife of another person, such man or woman shall be punished as aforesaid, and the first wife or husband of the person offending against this act shall have a bill of divorce from board and bed granted by the governor for the time being against the husband or wife so offending, if desired within one year after conviction.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed September 19, 1785, Chapter 1187; September 15, 1786, Chapter 1241; April 5, 1790, Chapter 1516; April 18, 1795, Chapter 1861; April 4, 1799, Chapter 2061; April 4, 1807, P. L. 133, and March 31, 1860, P. L. 392. Repealed by the Act of March 31, 1860, P. L. 451.

CHAPTER CXXIV.

AN ACT AGAINST SODOMY AND BUGGERY.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person or persons shall be convicted of sodomy and buggery (provided he or they be at the age of discretion, and consenting thereunto) [he or they] shall suffer imprisonment at hard labor during life, and shall be whipped at the discretion of the

magistrates (not exceeding thirty-nine lashes at one time) every three months during the first year after conviction. And if a married person be legally convicted of buggery, he or she shall suffer the same punishment, and the injured husband or wife (if required) shall have a bill of divorce from bed and board; which divorce, as also all other divorces, shall be granted by the governor or lieutenant-governor for the time being, if required within one year after conviction.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed May 31, 1718, Chapter 236; September 19, 1785, Chapter 1187; September 15, 1786, Chapter 1241; April 5, 1790, Chapter 1516; April 18, 1795, Chapter 1861; April 4, 1799, Chapter 2051; March 21, 1806, P. L. 570, and March 31, 1860, P. L. 392. Repealed by the Act of March 31, 1860, P. L. 451.

CHAPTER CXXV.

AN ACT AGAINST BURNING OF HOUSES.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That whosoever shall be convicted of willfully burning any man's house, warehouse, outhouse, barn or stable, shall forfeit his or her whole estate to the party suffering, and be imprisoned all their lives in the House of Correction at hard labor, to the behoof of the said party suffering. And whosoever shall be convicted of maliciously and voluntarily firing any stacks or ricks of corn, hay, wood or fence, or any vessel, boat or canoe, shall make fourfold satisfaction to the party wronged, and suffer im-

prisonment at hard labor, to the use of the poor, as long as the court shall think fit. And if the party offending be unable to make such satisfaction, then he or she shall make restitution by servitude, as the court shall think reasonable.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed May 31, 1718, Chapter 236, February 21, 1767, Chapter 557; February 24, 1770, Chapter 612; March 21, 1772, Chapter 652; April 22, 1794, Chapter 1777; March 21, 1806, P. L. 570; April 23, 1829, P. L. 341; April 16, 1849, P. L. 665; April 25, 1850, P. L. 575; March 31, 1860, P. L. 415; April 9, 1869, P. L. 786; April 17, 1869, P. L. 74; June 2, 1870, P. L. 1316, and June 10, 1881, P. L. 117.

CHAPTER CXXVI.

AN ACT AGAINST DRUNKENNESS AND DRINKING OF HEALTHS.

For the discouragement and punishment of drunkenness:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That every person disordering or abusing him or herself with excessive drinking unto drunkenness, as also those who are instrumental thereto by imposing strong liquors, with drinking healths or otherwise to provoke the same; and every person suffering any such excess in their houses, being convicted thereof by one or more credible witnesses, shall, for the first offense pay five shillings, or suffer five days' imprisonment at hard labor; and for the second, and every offense after, ten shillings, or ten days' imprisonment as aforesaid.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, supplied by the Act of Assembly passed March 30, 1779, Chapter 833.

CHAPTER CXXVII.

AN ACT AGAINST RIOTOUS SPORTS, PLAYS AND GAMES.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person shall introduce or at any time exercise in any part of this province any prizes, interludes, stage-plays, masks, revels, bull-baitings, bear-baitings, cock-fightings, dog-matches, cudgels, backsword, throwing at cocks, or shall in any town or near any building fire any rockets, wildfire, squibs, or make bonfires, or shall practice or be a party in any riotous sport or play whatsoever, and be lawfully convict thereof by view of a magistrate, confession of the party, or proof of one or more credible witnesses, such person or persons shall for every such offense be reputed as breakers of the peace, and shall forfeit and pay twenty shillings, and be imprisoned till payment.

[Section II.] And be it further enacted by the authority aforesaid, That if any person or persons keeping a tavern, ordinary or any kind of public-house shall entertain, harbor or suffer any person or persons whatsoever in their houses or in any alley or other place about their houses to play at cards, dice, lotteries, tables, rowley-powley, loggats, shovegroat, shovel-board, billiards, cales [kayles], cloughcales [closesh-kayles], ninepins, nine-holes, quoits, bowles, half-bowles, or any other kind of game whatsoever, now invented or hereafter to be invented, every such person keeping [a] tavern, ordinary or other public-house, being convicted thereof as aforesaid, shall for every offense forfeit five pounds. And every person keeping any house or place for such unlawful games or sports, for every such offense shall forfeit forty shillings; and any justice of the peace, magistrate or officer shall or may from time to time enter into any public house or place where any such games or sports shall be sus-

pected to be used, and may arrest the keepers of such places and imprison them till they find sureties by recognizance no longer to keep any such house or play, game, alley or sport. And every person so playing, being convicted thereof as aforesaid, shall forfeit and pay five shillings for every offense, one-half of the said several fines to the proprietary for the support of government, and the other half to him or them who shall discover and prosecute for the same, to be recovered by warrant and distress thereupon from any justice of the peace within this province.

And for the preventing the mischief of playing or gaming for lucre:

[Section III.] Be it enacted by the authority aforesaid, That if any person or persons play at any of the said games or at any other unlawful game whatsoever for lucre of gain [sic], or shall bet on the sides or hands of those that do, the party or parties that shall loose any sum or sums of money, or other thing so played or betted for, shall not be bound or compelled to pay or make good the same, and the person or persons so winning the said money or other things shall forfeit double the value of all such sums of money or other things so won, gained, obtained or acquired, the one moiety to the proprietary and governor, and the other to the party grieved, or to such person as shall sue for the same, so as the party grieved prosecute within three months next after such play; and in default of such prosecution, then the same other moiety to such other person as shall prosecute within six months next after the said three months are expired. And every such plaintiff or informer shall recover treble costs against the person or persons offending as aforesaid, to be recovered by action of debt in any court of record within the proper county.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709. See Appendix II, Section III, and the Act of Assembly passed February 28, 1710-11, Chapter 174.

CHAPTER CXXVIII.

AN ACT AGAINST RIOTS AND RIOTERS.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, [absolute] Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any persons, to the number of three or more, shall meet together with clubs, staves or any other hurtful weapons, to the terror of any the peaceable people or inhabitants of this province and shall commit, or design to commit, violence or injury upon the person or goods of any of the said inhabitants, and shall be convicted thereof, such persons shall be reputed and punished as rioters, according to the laws of England; and such act of terror or violence, or design of violence, shall be deemed and accounted a riot.

Passed January 12, 1705-6. Allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed February 3, 1764, Chapter 508; October 19, 1771, Chapter 639; January 22, 1774, Chapter 690; April 12, 1845, P. L. 380; March 7, 1848, P. L. 110; April 9, 1849, P. L. 526; May 3, 1850, P. L. 670, and March 31, 1860, P. L. 389. Repealed by the Act of March 31, 1860, P. L. 461.

CHAPTER CXXIX.

AN ACT LIMITING THE PRESENTMENTS OF THE GRAND JURY.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in Gen-

eral Assembly met, and by the authority of the same, That from henceforth nothing which may be determined by justices of the peace according to law shall be presentable by any of the grand juries of this province, any law, usage or custom to the contrary thereof in anywise notwithstanding.

Passed January 12, 1705-6. Repealed by the Queen in Council, October 24, 1709. See Appendix II, Section III.

CHAPTER CXXX.

AN ACT FOR DETERMINING OF DEBTS UNDER FORTY SHILLINGS.

To the end that speedy justice may be done:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That upon complaint made to any justice of the peace in this province against any person justly indebted under the sum of forty shillings, it shall and may be lawful for the said justice, and he is hereby empowered to issue his warrant, directed to the constable to summon the defendant to appear before him at such time and place as he shall appoint; and upon full hearing and good evidence he shall give his judgment in the matter, which shall be final and conclusive to both plaintiff and defendant, without further appeal; and execution shall be awarded against the person refusing to comply with the judgment, to levy the same upon his goods and chattels, and for want of goods and chattels, against his body.

Provided always, That nothing in this act contained shall extend to any debt for rents or contracts of real estate.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed June 7, 1712, Chapter 186, and March 27, 1712-13. Repealed by the Act of May 28, 1715, Chapter 211.

CHAPTER CXXXI.

AN ACT FOR THE FURTHER SECURING THE ADMINISTRATION OF THE GOVERNMENT OF THIS PROVINCE.

Whereas it is of the greatest importance to the well-being of any county to be provided of a regular and plenary administration of government in all emergencies, and considering that the uncertainty of human life renders all governments liable to changes that may carry great inconveniences with them unless due provision be made against the same:

[Section I.] Be it therefore enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That in case it shall please Almighty God, at any time in the absence of the governor-in-chief of this province, to remove his lieutenant by death or otherwise before such sufficient provision be made by the governor-in-chief for the full administration of government, or in case of his said lieutenant's absence out of this government, the governor's council that are in place at the time of such lieutenant's decease or departure, or a majority of their number residing and dwelling in this province, of which the eldest or first-named member, or such member as the said eldest or first-named member with any five of the other members shall name and appoint, being always one, shall have the full power and authority of a governor of this province as effectually as any deputy or lieutenant commissionated by the governor-in-chief may or ought to have, and shall accordingly act and exercise all the powers of government as fully and amply as any deputy or lieutenant-governor may, can or ought to do, until another person or persons shall be duly commissionated and empowered by the said governor-in-chief or his heirs to act in their stead.

Passed January 12, 1705-6. Repealed by the Queen in Council, October 24, 1709. See Appendix II, Section III, and the Acts of Assembly passed June 7, 1712, Chapter 193.

CHAPTER CXXXII.

AN ACT FOR THE BETTER CONFIRMATION OF THE OWNERS OF LANDS
AND INHABITANTS OF THIS PROVINCE, IN THEIR JUST RIGHTS
AND POSSESSIONS.

Whereas the late King Charles the Second, by his royal charter to William Penn, proprietary and governor of this province, did declare, that the laws for regulating and governing of property within this province, for descent and enjoyment of lands, as likewise for the enjoyment and succession of goods and chattels, should be and continue the same as they should be for the time being by the general course of the law in England, until the said laws should be altered by the said William Penn, his heirs or assigns, and by the freemen of the said province, their delegates or deputies, or the greater part of them:

And whereas divers laws have been enacted in this province, that made all lands and tenements (without any regard to the fee-simple and other tenures by which they were held) as liable to pay debts as chattels, and to be taken and sold upon executions or by decrees in courts of equity, or to be sold by such executors as had no power by their testators' wills for so doing, and in certain cases to be sold by administrators, as also to be divided, allotted and distributed amongst the widows and children of intestates, in pursuance of which laws, divers lands, tenements and hereditaments in this province have been sold, delivered, assigned, allotted or distributed accordingly, now to the end that those sales, deliveries, assignments and allotments or distributions may have effect according to the tenor and true meaning of the said laws, and that the possessors and owners of the said lands and hereditaments so sold, delivered, assigned and distributed, and their heirs and successors may quietly have, hold and enjoy the same:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the

advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and singular the bargains and sales, being made *bona fide* and for valuable consideration, as also all assignments, grants and allotments or distributions made to any person or persons whatsoever, of any lands, tenements and hereditaments in this province, according to the tenor and direction or the true intent and meaning of the said laws in those cases made and provided, shall be, and are hereby declared to be good and effectual, and shall stand and be taken, deemed and adjudged good, sure and available in law, against all persons whatsoever, according to the tenor and effect of the same bargains, sales, assignments, grants and allotments or distributions; and that every person and persons, bodies politic and corporate, their heirs and successors, and all claiming by, from or under them, or any of them, for and according to their and every of their several estates and interest of, in and to the said lands, tenements and hereditaments, with their appurtenances so as aforesaid sold, delivered, assigned and allotted, shall or may quietly and peaceably have, hold and enjoy the same lands, tenements and hereditaments and premises and every part thereof, against all and every person and persons, their heirs and assigns, having, claiming or pretending to have, any estate, right, title, interest, claim or demand whatsoever of, in or to the same.

Saving nevertheless, To all and every person and persons, bodies politic and corporate (other than to the person and persons for payment of whose debts or maintenance of whose widows and children, any of the said lands, tenements or hereditaments have been sold, delivered or conveyed as aforesaid, and his and their heirs; and other than to the heirs at law of the said intestates, or any claiming under them, who shall attempt to avoid or annul the said divisions, allotments or distributions which have been made of the said intestates' lands and hereditaments among their widows and children, by virtue or in pursuānce of the said laws) all such actions, estates, possessions, rights, titles, interests, rents, profits and demands, as they or any of them have, shall, may or ought to have of, in or to all or any the said lands, tenements and hereditaments, or

any part thereof, in such manner and form as if this act had never been made; so that they do pursue their said rights, titles, claims and interest, by way of action or lawful entry, before the first day of October, which will be in the year of our Lord one thousand seven hundred and ten.

Provided always, That all and every the widows and children of intestates, to or amongst whom any lands, tenements or hereditaments have been allotted or distributed by virtue of the said laws, and all and every person or persons to whom any parts or purparts of lands, tenements and hereditaments have as aforesaid been, or hereafter shall be, sold or delivered upon executions, shall hold and enjoy their said respective parts, purparts or allotments in severalty, or as tenants in common, and not as joint tenants.

[Section II.] And be it further enacted by the authority aforesaid, That no deed, grant, conveyance or assurance heretofore made of any lands, tenements or hereditaments whatsoever, shall be judged or taken to be defective, avoided or prejudiced for or by reason of any want of form, or formal or orderly parts of a deed, as "the premises, *habendum, tenendum, redendum,*" the clause of warranty, the conclusion "In Witness whereof," and the date, or for mis-naming, mis-recital or non-recital of any the said lands or hereditaments or for mis-recital or non-recital or not mentioning, or not true mentioning, of the grantor's estate of, in or to the premises, or for want of livery and seizin, or attornment, or proofs of the consideration money actually paid, or for not producing in court, upon trial, any of the said deeds or grants recited in the said conveyances, or for not being recorded in the Rolls office: but, that all and every the said deeds, grants and conveyances, releases and assurances shall be, and are hereby declared and enacted to be, good and available in law, and shall be expounded as the law of this province was when they were made, and shall conclude all strangers as well as privies to the same: saving to every person and persons, other than to the said grantors, their heirs and successors, all such rights, titles, estates, claims and interests as they or any of them had, or ought to have, of, in or to the said lands, tenements and hereditaments, or any part thereof, at the time

when such deeds or conveyances were sealed and delivered, so as they do pursue their said rights, titles, claims or interests by way of action or lawful entry before the first day of October which shall be in the year of our Lord one thousand seven hundred and ten.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. This act is retrospective except the proviso to Section I, the provisions of which are made general by the Act of Assembly passed March 31, 1812, P. L. 259.

CHAPTER CXXXIII.

AN ACT CONCERNING THE PROBATES OF WRITTEN AND NUNCUPATIVE WILLS AND FOR CONFIRMING DEVISES OF LANDS.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all wills in writing, wherein or whereby any lands, tenements or hereditaments within this province have been, are or shall be devised (being proved by two or more credible witnesses upon their solemn affirmation, or by other legal proof, in this province, or being proved in the Chancery in England, and the bill, answer and depositions transmitted hither under the seal of that court, or being proved in the hustings or mayor's court in London, or in some manor-court, or before such as have or shall have power in England or elsewhere to take probates of wills and grant letters of administration, and a copy of such will, with the probate thereof annexed or endorsed, being transmitted hither under the public or common seal of the courts or officers where the same have been or shall be taken or granted, and recorded or entered in the register-general's office in this

province), shall be good and available in law for the granting, conveying and assuring of the lands or hereditaments thereby given or devised, as well as of the goods and chattels thereby bequeathed; and that the copies of all wills and probates, under the public seals of the courts or offices where the same have been or shall be taken or granted respectively (other than copies or probates of such wills as shall appear to be annulled, disproved or revoked) shall be judged and deemed, and are hereby declared and enacted, to be matter of record, and shall be good evidence to prove the gift or devise thereby made; and that all such probates, as well as all letters of administration granted out of this province, being produced here, under the seals of the courts or offices granting the same, shall be as sufficient to enable the executors or administrators, by themselves or attorneys, to bring their actions in any court within this province as if the same probates or letters testamentary or administrations were granted here and produced under the seal of the register-general's office of this province.

Provided always, That if any of the wills whereof copies or probates shall be so as aforesaid produced and given in evidence shall, within seven years after the testator's death, appear to be disproved or annulled before any judge or officer having cognizance thereof, or shall appear to be revoked or altered by the testator, either by a later will or codicil in writing, duly proved as aforesaid; then, and in every such case, it shall and may be lawful for the party aggrieved, or his or their heirs, executors or assigns, to have their action for what shall be taken or detained from them by occasion of such wills, or have their writ or writs of error for reversing the judicial proceedings thereupon, as the case shall require, anything herein contained to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That from henceforth no nuncupative will be good where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by two or more witnesses who were present at the making thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his

will, or to that effect; nor unless such nuncupative will be made in the time of the last sickness of the deceased and in the house of his or their habitation or dwelling, or where he or she hath been resident for the space of ten days or more next before the making of such will, except where such person was surprised or taken sick, being from his own house and died before he returned to the place of his or her dwelling.

[Section III.] And be it further enacted by the authority aforesaid, That after six months passed, after speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof were committed to writing within six days after the making of the said will.

[Section IV.] And be it further enacted by the authority aforesaid, That no letters testamentary, or probate of any nuncupative will shall pass the seal of the register-general's office in the respective counties of this province till fourteen days at the least, after the death of the testator, be fully expired; nor shall any nuncupative will be at any time received to be proved, unless process have first issued out to call in the widow or next of kindred to the deceased, to the end they may contest the same if they please.

[Section V.] And be it further enacted by the authority aforesaid, That no will in writing, concerning any goods or chattels or personal estate, shall be repealed, nor shall any clause, devise or bequest therein be altered or changed by any words or will by word of mouth only, except the same be in the life of the testator committed to writing, and, after the writing thereof, read unto the testator and allowed by him and proved to be so done by two or more witnesses.

Provided always, That notwithstanding this act, any mariner or person being at sea, or soldier being in actual military service, may dispose of his moveables, wages and personal estate as he or they might have done before the making of this act.

[Section VI.] And be it further enacted by the authority aforesaid, That there shall be an officer called register-general, to be commissionated by the governor from time to time for the pro-

bate of wills and granting letters of administration in this province; which register-general shall keep his office at Philadelphia, and shall from time to time constitute a sufficient deputy to officiate for him in each of the other counties of this province; who, being by him deputed, shall be, and are by this act empowered to take probates of wills and grant letters of administration in the respective counties, as fully and amply as the register-general himself ever could or can do according to the powers granted by the royal charter of the late King Charles the Second. Which deputies shall have and use a common seal, to be provided at the charge of the respective counties where they serve, with the like inscriptions as is or shall be upon the seal of the register-general's office at Philadelphia.

Provided, That no person who shall prove any will or take letters of administration in any one of the counties of this province, shall be obliged to prove the same will or take letters of administration in any other of the said counties, wherever such testator's or intestate's estates may lie or be. But before any register-general or his deputies shall enter upon their respective offices, they shall be duly qualified, either before the governor or in the Orphans' court of the county where they respectively officiate. And every register-general and every of his deputies shall find one or more sufficient sureties with himself to become bound to the governor for the time being, in a bond of two hundred pounds, for the true and faithful execution of his office, and for the delivering up the records and other writings belonging to the said office, by him, his heirs, executors or administrators, to his successor in the said office, whole and undefaced; which said bond shall be recorded in the Orphans' court, and be kept by one of the justices of the same court, as the majority of the justices for the time being shall order; to be made use of for making satisfaction to the parties that shall be damaged or aggrieved, as is or shall be directed by the laws of this province in such cases. And if the register-general or his deputies or any of them shall officiate in the said office before he has given such security, or if the register-general for the time being shall refuse or neglect to constitute a deputy-register in each county according to the direction[s] of

this act, then, and in every such case, he or they so offending shall forfeit the sum of two hundred pounds, to be recovered in any court of record in this province; and the one-half thereof shall go to the governor for support of government, and the other half to him or them that shall sue for the same.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed June 7, 1712, Chapter 187; March 27, 1712-13, Chapter 197; March 23, 1764, Chapter 512; the Constitution of 1776; the Acts of Assembly passed March 14, 1777, Chapter 748; August 31, 1778, Chapter 804; Constitution of 1790; the Acts of Assembly passed April 6, 1791, Chapter 1547; April 13, 1791, Chapter 1575; September 30, 1791, Chapter 1601; March 31, 1792, Chapter 1618; April 19, 1794, Chapter 1751; April 1, 1797, Chapter 1946; April 4, 1797, Chapter 1949; March 20, 1799, Chapter 2032; March 12, 1800, Chapter 2131; April 7, 1807, P. L. 155; March 26, 1808, P. L. 144; March 15, 1832, P. L. 135; April 8, 1833, P. L. 249, and April 22, 1856, P. L. 532.

CHAPTER CXXXIV.

AN ACT DIRECTING THE ORDER OF PAYMENT OF DEBTS OF PERSONS DECEASED.

For preventing disputes and contests at law, or otherwise concerning the order of payment of debts of persons deceased within this province:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all debts owing by any person within this province at the time of his or her decease, shall be paid by his or her executors or administrators (so far as they have assets) in manner and order following: (That is to say) fire, physic and funeral expenses; secondly, debts and duties [due] to the Queen; thirdly, debts due to the proprietary and governor; fourthly, judgments; fifthly, debts due by recognizances; sixthly, rents; seventhly,

obligations, bills penal, and protested bills of exchange; eighthly, single bills; ninthly, servants' and workmen's wages; tenthly, merchants and traders' book-debts, and promises by word, arrears of accounts, and such like. Which said payments shall be good and available in law against all persons whatsoever.

[Section II.] Provided always, and be it further enacted by the authority aforesaid, That nothing in this act contained shall prevent or damnify any executor or administrator for discharging the decedent's just debts, as the same shall come to his, her or their knowledge, without regard to the priority of the same in payment, after the expiration of twelve months from the time of the said decedent's decease.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed April 19, 1794, Chapter 1751.

CHAPTER CXXXV.

AN ACT FOR THE BETTER SETTLING OF INTESTATES' ESTATES.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the register-general and his deputies, having power to grant letters of administration of the goods and chattels of persons dying intestate within this province, shall upon their granting of such letters of administration, take sufficient bonds, with two or more able sureties (respect being had to the value of the estate) in the name of the register-general, with the conditions in manner and form following, *mutatis mutandis*, viz.,

The condition of this obligation is such, that if the within bounden A. B. administrator of all and singular the goods, chattels and credits of C. D., deceased, do make or cause to be made a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession or knowledge of him the said A. B., or into the hands and possession of any other person or persons for him; and the same, so made, do exhibit or cause to be exhibited into the register's office in the county of _____ at or before the _____ day of _____ next ensuing; and the same goods, chattels and credits and all other the goods, chattels and credits of the said deceased at the time of his death, which at any time after shall come to the hands or possession of the said A. B., or into the hands and possession of any other person or persons for him, do well and truly administer according to law: and further do make or cause to be made a true and just account of his said administration, at or before the _____ day of _____ and all the rest and residue of the said goods, chattels and credits which shall be found remaining upon the said administrator's account (the same being first examined and allowed of by the Orphans' court of the county where the said administration is granted) shall deliver and pay unto such person or persons respectively as the said Orphans' court in the respective county by their decree or sentence, pursuant to the true intent and meaning of this act, shall limit and appoint; and if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named do exhibit the same into the said register's office, making request to have it allowed and approved accordingly; if the said A. B. within bounden, being thereunto required, do render and deliver the said letters of administration (approbation of such testament being first had and made in the said register's office) then this obligation to be void and of none effect, or else to remain in full force and virtue.

Which bonds are hereby declared and enacted to be good to all intents and purposes, and pleadable in any courts of justice; and also, that the said Orphans' court in the respective counties shall and may, and are hereby enabled to proceed and call such administrators to account for and touching the goods of any person dying intestate; and upon hearing and due consideration thereof, to order and make just and equal distribution of what remaineth clear (after all debts, funeral and just

expenses of every sort first allowed and deducted) among the wife and children or children's children (if any such be) or otherwise to the next of kindred to the dead person, in equal degree or legally representing their stocks, to every one his right, according to the laws in such cases and to the rules and limitations hereafter set down: and the same distributions to decree and settle, and to compel such administrators to observe and pay the same by the due course of the laws of this province; saving to every one (supposing him or themselves aggrieved) their right of appeal to the Provincial or Supreme court of this province.

Provided always, That the said Orphans' court in each county, which is by this act enabled to make distribution of the surplusage of the estate of any person dying intestate, shall distribute the whole surplusage of such estate or estates in manner and form following: (That is to say) one-third part of the said surplusage to the wife of the intestates, and all the residue, by equal portions, to and among the children of such persons dying intestate (allowing the eldest son two shares): and to such persons as legally represent such children, in case any of the said children be then dead (other than such child or children who shall have any estate by the settlement of the intestate, or shall be advanced by him in his lifetime by portion or portions equal to the share which shall, by such distribution, be allotted to the other children) to whom such distribution is to be made. And in case any child who shall have any estate by settlement from the intestate, or shall be advanced by the said intestate in his lifetime by portion not equal to the share which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate to be distributed to such child or children as shall, have any land by settlement from the intestate, or were advanced in the lifetime of the intestate, as shall make the estate of all the said children to be equal as near as can be estimated, the eldest son being allowed two shares as aforesaid. And in case there be no children nor any legal representatives of them, then one moiety of the said estate to be allotted to the wife of the intestate, and

the residue of the said estate to be distributed equally to every of the next kindred of the intestate who are in equal degree and those who legally represent them. Provided, That there be no representatives admitted amongst collaterals after brothers' and sisters' children. And in case there be no wife, then all the said estate to be distributed equally to and amongst the children, the eldest son to have two shares as aforesaid. And in case there be no child, then to the next of kindred in equal degree of or unto the intestate, and their legal representatives as aforesaid, and in no other manner whatsoever.

Provided also, and to the end that a due regard be had to creditors, That no such distribution of the goods of any person dying intestate be made till after one year be fully expired after the intestate's death. And that such and every one to whom any distribution and share shall be allotted, shall give bond with sufficient sureties in the said Orphans' court, that if any debt or debts truly owing by the intestate shall be afterwards sued for and recovered, or otherwise duly made to appear, that then and in every such case, he or she shall respectively refund and pay back to the administrator his or her ratable part of that debt or debts, and of the costs of suit and charges of the administrator by reason of such debts, out of the part and share so as aforesaid allotted to him or her, thereby to enable the said administrator to pay and satisfy the said debt or debts so discovered, after the distribution made as aforesaid.

[Section II.] Provided always and be it further enacted by the authority aforesaid, That in all cases where the register-general hath used heretofore to grant administration with a testament annexed, he shall continue so to do; and the will of the deceased, in such testament expressed, shall be performed and observed in such manner as it should have been if this act had never been made.

Provided also, That all such of the intestate's relations, and persons concerned, who shall not lay legal claim to their respective shares within seven years after the decease of the intestate, shall be debarred from the same forever.

[Section III.] And be it further enacted by the authority afore-

said, That if any person or persons shall die intestate, being owners of lands or tenements within this province at the time of their death, and leave lawful issue to survive them, but not a sufficient personal estate to pay their just debts and maintain their children: in such case it shall be lawful for the administrator or administrators of such deceased to sell and convey such part or parts of the said lands or tenements, for defraying their just debts, maintenance of their children, and for putting them apprentices, and teaching them to read and write, and for improvement of the residue of the estate (if any be) to their advantage, as the Orphans' court of the county where such estate lies shall think fit to allow, order and direct from time to time.

Provided always, That no lands or tenements contained in any marriage settlement shall, by virtue of this act, be sold or disposed of contrary to the form and effect of such settlement; nor shall any Orphan's court allow or order any intestates lands or tenements to be sold before the administrator requesting the same doth exhibit one or more true and perfect inventories and consonable appraisements of all the intestate's personal estate whatsoever, as also a just and true account, upon his or her solemn affirmation, of all the intestate's debts which shall be then come to his or her knowledge; and if thereupon it shall appear to the court that the intestate's personal estate will not be sufficient to pay the debts and maintain the children until the eldest of them attains to the age of twenty-one years, or to put them out to be apprentices, and teach them to read and write; then and in every such case, and not otherwise, the court shall allow such administrator to make public sale of so much of the said lands as the court, upon the best computation they can make of the value thereof, shall judge necessary for the purposes aforesaid, reserving the mansion-house and most profitable part of the estate till the last. But before any such sale be made, the court shall order so many writings to be made by the clerk upon parchment or good paper, as the court shall think fit, to signify and give notice of such sales, and of the day and hour when, and the place where the same will be, and what lands are to be so sold, and where they lie; which notice shall be delivered to the sheriff or constables, in order to be fixed in the

most public places of the county or city, at least ten days before sale; and the sheriffs or constables are hereby required to make publication accordingly; and the administrator that makes such sale shall bring his or her proceedings therein to the next Orphans' court after the sale made. And if it shall happen that any lands be sold by virtue of this act for more than the court's computation of the value thereof, then the administrator shall be accountable for the same, as by this act is required for intestate's personal estates.

[Section IV.] And be it further enacted by the authority aforesaid, That the surplusage or remaining part of the intestate's lands, tenements and hereditaments not sold or ordered to be sold by virtue of this act, and not otherwise limited by marriage-settlement, shall be divided between the intestate's widow and children, or the survivors of them, who shall equally inherit and make partition as tenants in common may or can do. But if the intestate leaves a widow and no child, then such widow or relict shall inherit one moiety or half part of the said lands and tenements, and the other moiety shall descend and come to the intestate's next heir, according to the course of the common law. But if the intestate leave no widow nor child living at the time of his death, or if the children all die in their minority without issue, then the said lands and tenements shall descend and come to the intestate's heir-at-law, according to the course aforesaid. But if any of the intestate's children dying before the intestate shall leave lawful issue, such issue shall equally inherit the intestate's lands and tenements, with their uncles or aunts, and make partition as aforesaid.

Provided always, That no widow or child of any intestate having so much land by settlement from the said intestate as by the said court's computation of the value thereof shall be equal to the share or purpart of the intestate's lands, which by this act are to be allotted to any of the other children in manner aforesaid; then such widow or child, so provided for, shall have no share of the said surplusage of the intestate's other lands. But if the value of the lands so settled by the intestate, shall not, by the computation aforesaid, amount to an equal share, then the said court shall allot to the party so much of the

said other lands as shall make the shares or estate of the widow and all the said children equal, as near as can be estimated, the eldest son having a double share as aforesaid.

Provided also, That nothing in this act contained shall give any widow a right or claim to any part of such lands or tenements for her dower or thirds as shall yield yearly rents or profits whereof her husband died seized, for any longer time than the term of her natural life; which dower she shall hold as tenants-in-dower do in England. And the said profitable lands or tenements, and the unimproved or rough land next adjacent thereto, shall not be sold but for payment of the intestate's debts.

Provided also, That no partition of the lands or tenements which are to be divided by this act shall be made by or for the relict or younger children of the intestate, if the heir-at-law will within the space of twelve months pay so much money or other effects to the person or persons demanding such partition as their respective shares or purparts shall amount unto, by the valuation of four or more persons indifferently chosen by both parties, or by an inquest appointed by the Orphans' court to value the same where the parties cannot otherwise agree. And the person or persons (whether minors or others) to whom, or for whose use, payment or satisfaction shall be made for their respective purparts by the heir-at-law in manner aforesaid, shall be forever debarred of all the right, title and demand which he or they can or may have of, in or to such share or purparts by virtue of this act; but the same shall be held and enjoyed by the heir-at-law as freely and fully as the intestate held the same.

And in case such intestate shall have no known kindred, then all his lands, tenements and hereditaments shall escheat or go to the immediate landlord of whom such lands are held, his heirs and assigns; and if immediately held of the proprietary, then to the proprietary, his heirs and assigns; and all the goods, chattels and personal estate whatsoever of such person dying intestate, and without kindred as aforesaid, shall go to the proprietary and governor, his executors or administrators. But

if any of the said intestate's relations shall appear and make their claims to such intestate's personal estate within seven years after the decease of the intestate, they shall be restored thereunto.

And if the lawful heir to any such lands or tenements, shall at any time within twenty-one years after the intestate's decease, appear, he may traverse the inquisition or office found for the land so escheated, and recover the same, paying the lord or person in possession for the improvements made thereupon, according to the valuation of twelve men.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 27, 1712-13, Chapter 197; February 4, 1748-9, Chapter 374; June 20, 1759, Chapter 445; March 23, 1764, Chapter 512; March 21, 1772, Chapter 689, and the two Acts passed August 31, 1778, Chapter 803 and 804. Repealed by the Act of April 19, 1794, Chapter 1751.

CHAPTER CXXXVI.

AN ACT FOR THE ACKNOWLEDGMENT AND RECORDING OF DEEDS.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That every deed of feoffment, bargain and sale, or other conveyance hereafter to be made and executed for lands, tenements and hereditaments in this province (except leases for twenty-one years or under) shall be within six months after the date thereof acknowledged by the party or parties that grant the same, or be duly proved by two of the witnesses thereto before one or more of the justices of the peace (the recorder or enroller of deeds or his deputy, in any of the counties within this pro-

vince being present) and be recorded in the city or county where such lands or tenements lie. And the justice or justices before whom such deed shall be so acknowledged or proved shall, under his or their hands and seals, certify the same upon the back of such deed, and the day and year when such acknowledgment or proof was made, and by whom; which deed so acknowledged or proved and recorded or enrolled at length in the said office, shall be valid and effectual in law. And every deed or conveyance (other than leases for twenty-one years or under) heretofore made for any lands, tenements or hereditaments in this province, not yet acknowledged in court or recorded, which shall, within five years after the twenty-fifth day of the month called March in the year of our Lord one thousand seven hundred and six, be acknowledged or proved and recorded as aforesaid, shall take effect from the time of their signing and sealing, and shall be, and are hereby declared and enacted to be good and available in law; and the justice before whom such acknowledgments or proofs are made according to this act, shall have and receive of the grantee for certifying the acknowledgment or proof of every deed, one shilling and no more. And the recorder, if occasion be, is hereby required to go to the justice, and shall have three pence per mile traveling charges, and one shilling for his fee, and shall exact and demand no more, under the penalty of forty shillings for every offense, one-half thereof to the governor for support of the government of this province, and the other half to him or them that will sue for the same in any court of this province, where no escoin, protection or wager of law shall be allowed.

[Section II.] And be it further enacted by the authority aforesaid, That all deeds and conveyances made and granted out of this province and brought hither, the execution whereof being proved by the solemn affirmations of one or more of the witnesses thereunto, before one or more of the justices of the peace of the proper county, and delivered to be recorded, or before any mayor or chief-magistrate or officer of the cities, towns or places where such deeds or conveyances are or shall be made or executed, and accordingly certified under the common or public seal of the cities, towns or places where such deeds or convey-

ances are so proved respectively, and the same deeds or conveyances being recorded in the aforesaid office for the county where such lands lie, within six months next after the arrival of the ship, vessel or person that brought the same, shall be, and are hereby declared to be as valid as if the said deeds or conveyances had been here made, acknowledged, proved and recorded according to the form and time hereinbefore appointed.

Provided nevertheless, That if any person here lawfully empowered shall, in pursuance of that power, make sale and assurance of any lands or hereditaments (to any person whatsoever) within this province, and the deeds thereof be duly proved (or patent had) and recorded according to the true meaning of this act, before any conveyance either from the proprietor of this province or other owner of the same lands or hereditaments, or any part thereof, to any other person be here produced, proved and recorded as aforesaid, the said deed or patent so made passed and recorded here shall stand good and effectual in law to all intents and purposes whatsoever, and the other shall be void.

[Section III.] And be it further enacted by the authority aforesaid, That all deeds and conveyances made or to be made, proved, acknowledged and recorded according to the true intent and meaning of this act, shall be of the same force and effect here, for the assurance of the said lands, tenements and hereditaments, and for docking and barring estates tail, as fines and recoveries at common law, or deeds of feoffment with livery and seizin, or deeds enrolled in any of the Queen's courts at Westminster, are or shall be in the kingdom of England. And the exemplifications of all deeds so enrolled, being examined by the recorder and certified accordingly under the seal of the proper office, which the keeper thereof is hereby required to affix thereto, shall be, and are hereby declared and enacted to be as valid and effectual in law as the original deeds themselves; and may be shown, pleaded and made use of accordingly. Saving to all and every person or persons, bodies politic and corporate, their heirs and successors, executors and administrators (other than to the said feoffers and grantors, their heirs

and successors) all such rights, titles, estates, claims and interest as they or any of them have of, in or to the said lands, tenements and hereditaments, or any part thereof, at the time of such feoffment or other conveyance aforesaid sealed and delivered, so that they do pursue their said rights, titles, claims or interests by way of action or lawful entry within seven years next after the date of such deeds or conveyances; and saving to all persons such action, right, title, interest and claim of, in or to the said lands, tenements or other hereditaments as first shall grow, remain, descend or come to them after the dates of the said deeds or conveyances by force of any gift or grant, or by any other cause or matter had or made before the ensealing and delivery of the said deeds, so that they take their action or pursue their right according to law, within seven years next after such action, right, claim, title or interest to them accrued, descended or came; and that the said persons and their heirs may have their said action against the pernors of the profits of the said lands and hereditaments at the time of the said action to be taken. And also saving the right and title of all persons who at the time of the sealing and delivery of the said deeds, or at the time the said action, right and title may accrue, descend or come as aforesaid, shall be women covert, and no parties to the said deeds; or within age, or in prison, or beyond the seas, or not of whole or sound memory, so that they or their heirs take their said action or lawful entry according to their right and title, within three years next after they come and be at their full age, out of prison, within this province in person or by their attorney or agent, unmarried, and of whole memory, and pursue the same actions and entries with effect according to the laws of this province. And if they do not take their actions and entries as is aforesaid, that they and every of them and their heirs shall be concluded by the said feoffments, deeds and conveyances forever, in the like manner as they that be parties or privies thereunto.

Provided always, That where any person or persons shall, by a deed duly executed, grant or convey his or their lands or tenements to any person or persons, and before the recording or enrollment of such deed, shall grant or convey the same

lands or tenements to any other person or persons who get the last deed or grant recorded or enrolled, if afterwards the first deed be recorded or enrolled within the time prescribed by this act for recording such a deed, then the last or other deed and the enrollment thereof shall be *ipso facto* void, anything in this act contained to the contrary notwithstanding.

Provided also, That no woman shall recover her dower or thirds of any lands or tenements which have been sold, aliened or conveyed by her husband during her coverture, although she be no party to the deed nor anyways consenting to the sale or assurance of such lands or tenements, any law or usage to the contrary in anywise notwithstanding.

Provided also, That from henceforth no woman shall be debarred of her right or inheritance in any lands or tenements which she hath in her own right before or after marriage, which shall be sold, aliened or conveyed by her husband during the coverture, unless she be party to such deeds or assurances, and be examined secretly and apart by the justice or justices before whom such deeds are acknowledged, whether she be content of her own free will to part with her right in the land, or whether she does it by menace or threats or out of fear of her husband or by any other compulsory means, and then the contents of the deed shall be read distinctly to her, and if the justice or justices doubt of her age, he or they may examine her upon her solemn affirmation concerning the same.

[Section IV.] And be it further enacted by the authority aforesaid, That no deed or mortgage or defeasible deed in the nature of mortgages shall be good or sufficient to convey or pass any freehold or inheritance or to grant any estate therein for life or years, unless such deed be acknowledged or proved, and enrolled or recorded where the land or estate lies, as before directed for other deeds.

[Section V.] And it is further enacted by the authority aforesaid, That any mortgagee of any real or personal estates within this province, having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage shall, at the request of the mortgagor, enter satisfaction upon the margin of such mort-

gage recorded or to be recorded in the said office of enrollment; which shall forever hereafter discharge, defeat and release the same, and shall likewise bar all actions brought or to be brought thereupon. And if such mortgagee by himself or his attorney shall not, within three months after request and tender made for his reasonable charges, repair to the said office and there make such acknowledgment as aforesaid, he, she or they so refusing shall for every such offense forfeit and pay unto the party or parties aggrieved any sum not exceeding the mortgage money, to be recovered in any court of record within this province by bill, plaint or information.

[Section VI.] And be it further enacted by the authority aforesaid, That the said enrollment office shall be kept in some convenient place in each county of this province; and the recorder or enroller, by himself or sufficient deputy, shall duly attend the service of the same, and at his own proper costs and charges shall provide rolls of parchment, or good large books of royal or other large paper and well covered, where he shall record or enroll the said deeds or conveyances in a fair legible hand; for which he shall have and receive for recording or enrolling and for copying or exemplifying every deed, conveyance or writing, one penny for every line, accounting twelve words at least for a line, one with another; and for every search, eighteen pence; and for every acknowledging satisfaction in the margin of a mortgage recorded, twenty pence, and no more; and for the seal he shall have and receive for fixing the same to every exemplification ten pence, and shall take and exact no more, under the penalty of five pounds for every offense, one-half thereof to the governor for the use aforesaid, and the other half to him or them that shall sue for the same.

[Section VII.] And be it further enacted by the authority aforesaid, That the present master of the rolls, and every other master of the rolls succeeding him, that shall be appointed recorder or enroller for the whole province shall, by himself or sufficient deputies (for whom he shall be answerable) hold his office at Philadelphia and in each of the other counties of this province, for recording deeds, and shall find one or more sufficient sureties with himself to become bound to the governor for

the time being in a bond of five hundred pounds, for the true and faithful execution of the said office and for delivering up the records and other writings belonging to the said office by him, his heirs, executors or administrators, to his successor in the said office safe, whole and undefaced; which said bond shall be filed in the secretary's office and there safely kept, in order to be made use of for making satisfaction to the parties that shall be damaged or aggrieved, as is or shall be directed by the laws of this province in such cases. And no master of the rolls, recorder or enroller of deeds whatsoever, hereafter to be appointed by commission from the governor, shall enter upon or shall officiate in his office before he hath given such security as aforesaid, upon pain of forfeiting the sum of one hundred pounds, to be recovered as aforesaid; the one-half thereof shall go to the governor for the use aforesaid, and the other half to him or them that shall sue for the same.

Passed January 12, 1705-6. Repealed by the Queen in Council, October 24, 1709. See Appendix II, Section III, and the Act of Assembly passed February 28, 1710-11, Chapter 170.

CHAPTER CXXXVII.

AN ACT TO ASCERTAIN THE NUMBER OF MEMBERS OF ASSEMBLY AND TO REGULATE THE ELECTION.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That for the well-governing of this province there shall be an assembly yearly chosen, and for that end it shall and may be lawful to and for the freemen and inhabitants of the city of Philadelphia, as also for the freemen and inhabitants of the respective counties of this province, without any writ or summons to meet on the first day of October yearly, forever, at the most usual place

of elections in the said respective counties: (That is to say) for the city and county of Philadelphia at or near the market-place in the said city; and for the county of Bucks, upon the court-house ground in the town of Bristol; and for the county of Chester, at or near the court-house in the town of Chester; and then and there choose their representatives or delegates to serve them in assembly; which shall consist of not less than two persons for the said city of Philadelphia, and eight persons for each county of this province; or a greater number as the governor and assembly shall at any time hereafter agree. And that the members so to be elected, shall meet and sit in assembly on the fourteenth day of October yearly, forever, at the said city of Philadelphia, unless the governor and council for the time being shall see cause to appoint another place within this province to sit at. But when any of the said days of election or meeting of assembly shall happen to fall on the First day of the week, called Sunday, then such election and meeting shall be [held on] the next day following.

Provided always, That no inhabitant of this province shall have right of electing, or being elected as aforesaid, unless he or they be natural-born subjects of England, or be naturalized in England or in this government; and unless such person or persons be of the age of twenty-one years or upwards, and be a freeholder or freeholders in this province, and have fifty acres of land or more well seated, and twelve acres thereof or more cleared and improved; or be otherwise worth fifty pounds, lawful money of this province, clear estate, and have been resident therein for the space of two years before such election.

And to the end that elections, upon which the good of the government so much depends, may not be corruptly managed or obtained:

[Section II.] Be it enacted by the authority aforesaid, That all the elections of the said representatives shall be free and voluntary, by persons having estates and being qualified as aforesaid in the respective county or counties for which he or they shall elect or be elected.

Provided, That the electors and elected for the said city of Philadelphia shall have a freehold estate, or be worth fifty

pounds, clear personal estate within the same city, and be otherwise qualified as aforesaid. And that the elector who is not so qualified as aforesaid, or that shall receive any reward or gift for his vote, shall forfeit his right of electing for that year, and shall pay the sum of five pounds, the one-half thereof to the governor, and the other half to him or them that shall sue for the same in any court of record within this province.

And that he or they who shall give, offer or promise any reward to be elected, or shall offer to serve for nothing, or less allowance than the law prescribes, shall forfeit five pounds, the one-half thereof to the governor, and the other to him or them that will sue for the same in manner aforesaid, and be incapable to serve for that year.

[Section III.] And be it further enacted by the authority aforesaid, That every sheriff, or in his absence, his under-sheriff or such as he shall depute; or for want of such deputation, the coroner or such as he shall appoint; or for want of such appointment, any two of the freeholders who, by the major part of the electors then and there present, shall be nominated and appointed judges of the said elections in the absence of the sheriff or coroner, shall attend at the said election, and shall appoint such a number of clerks for taking the poll or votes of the electors as the inspectors hereafter mentioned shall appoint; who shall all take the said poll or names of the electors in the presence of the said sheriff, coroner or other judges so nominated as aforesaid, or such as any of them shall depute or appoint, and shall make as many distinct columns on fair paper, as there shall be candidates voted for, as is hereinafter expressed; but before they begin every clerk so appointed shall, by the said sheriff or coroner, or by some magistrate then present, be attested or charged upon his solemn affirmation, truly and indifferently to take the said poll, and set down the names of each freeholder and elector and the place of his freehold or estate, and to poll no elector who is not attested, if so required by the inspectors of such clerks: which inspectors are to be nominated by the major part of the electors as aforesaid.

And every person coming to elect members for the city of Philadelphia, as also every person coming to elect members

for the said respective counties, shall deliver in writing the names of those persons for whom they vote to the sheriff, or some other of the said persons so as aforesaid appointed judges of the said elections; who shall open the paper if the elector be illiterate, and read the persons' names contained therein, and ask such elector whether these are [the] persons for whom he votes. Which paper, upon his affirmative, shall be received and put with the rest of the electors' papers in a box, which every sheriff is hereby required to provide for that purpose.

But if the elector brings no such paper or ticket, or if the illiterate elector will not vote for the persons contained in his paper, then and in all such cases the elector shall verbally give in the names of the persons he mostly desires should be chosen; which names shall be entered down by the said clerks.

Provided always, That every elector before he be admitted to poll (if required by any of the said inspectors) shall upon his solemn affirmation declare, that he is twenty-one years of age and a freeholder for the county of _____ and has fifty acres of land or more well seated, and twelve acres thereof or more cleared: or, that he is otherwise worth fifty pounds, money of this province, clear estate, and hath been resident therein for the space of two years, and that he has not been before polled at that election.

And in case any person, taking the said affirmation, shall be lawfully convicted of willfully and corruptly making a false affirmation therein, or if any shall suborn any person to take such false affirmation, he and they shall incur the same penalties and forfeitures as by the laws and statutes of England are provided against persons convicted of willful and corrupt perjury, and subornation of perjury respectively.

And that the said poll shall not be delayed, nor the election adjourned to another place or part of the county, other than where the same begins, but shall continue from day to day till the freeholders and electors then and there present shall be polled, and no longer. And when all the electors then appearing shall have delivered in all their papers or names, the said box shall be opened by the sheriff, or some other of the persons appointed by this act to officiate as judges of the said elections,

and the said papers taken out in the presence of the said inspectors, and delivered, one by one, to the said clerk or clerks to enter the names therein expressed in fair columns or otherwise, so that they shall cast up how many times each person's name is repeated in the same, and set it down; and shall then pronounce publicly to the people him whose name is oftenest mentioned in the said papers to be first elected, and so the next highest number successively until the whole eight persons for the county be pronounced elected by majority as aforesaid. And the same method shall be used concerning the two members to be elected for the city of Philadelphia.

But if, when the said papers are opened, there appear more names in any one of them, or more than one paper deceitfully folded together, containing more names than by this act is allowed any one elector to vote for, such papers shall be rejected, and not accounted amongst the votes.

And after the said representatives are so chosen as aforesaid, their names (be they present or absent) shall be written in a pair of indentures, sealed between the said sheriff or other persons officiating as judges of the said elections, and six or more of the said choosers.

And every sheriff or other persons officiating as judges of the said elections shall, on the first day of the meeting of every assembly, in person or by deputy present one part of the said indentures to the governor for the time being, and the other part thereof to the house of representatives; which said indentures shall be deemed and taken to be the sheriff's return of the representatives or delegates of the freemen of this province, to serve and act in the legislative or general assemblies of the same province from time to time. And the representatives so as aforesaid chosen shall yield their attendance accordingly.

And if any person or persons so chosen and returned to serve as aforesaid, shall be absent from the service for which he or they shall be so elected, he or they shall forfeit any sum not exceeding ten pounds current money, the one-half thereof to the governor, and the other half to him or them that shall sue for the same in manner aforesaid; unless his or their excuse for such absence shall be allowed of by the assembly.

And if any person so chosen and returned as aforesaid shall happen to die, or be willfully absent, or by vote of the house be disabled to sit or serve in assembly, then and in every such case the secretary for the time being shall, by the Speaker's order, issue out writs to the respective sheriffs of the counties where there shall be occasion for electing such new members. But in case the secretary shall delay the making of such writs for the space of two days next after he has notice of the Speaker's order in that behalf, it shall be lawful for the Speaker of the Assembly for the time being to issue forth the said writs, which shall be made in the governor's name, under the hand and seal of the Speaker; whereupon every sheriff or other officer to whom such writ or writs are directed, shall indorse the day of his receipt thereof on the back of the writ, and with all convenient speed, after he receives such writ, shall cause public notice to be given of the time and place of election, and proceed to elect thereupon in manner aforesaid, within the space of five days after his receipt of the said writ, and give two days' notice at least of the day appointed for election; which notice shall be given in writing, and shall be proclaimed in the most public places of the capital town or place where such election is to be, and the said sheriff or other officer shall cause copies of such notice or advertisement to be posted upon some tree or house in the way leading from every township or precinct to the town or place where the said election is to be, as also upon the court-houses and public fixed meeting-houses for religious worship in the said respective counties.

And when those elections are made by virtue of the said writs in manner aforesaid, the sheriff or other officer who shall officiate as judges of such elections, shall write the names of the persons so elected in a pair of indentures, sealed, and presented [*sic*] one part thereof to the governor, and the other part to the assembly, on the day of the return of such writs; which said indentures shall be deemed and taken to be the sheriff's return of such representatives.

All which said elections shall begin between the hours of ten in the morning and two in the afternoon; and that no person or persons whatsoever, by force of arms or menacing, shall dis-

turb the freemen of this province in the free election of their said representatives, but that the same election shall be freely and indifferently made.

[Section IV.] And be it further enacted by the authority aforesaid, That if any sheriff shall refuse or neglect to give notice of the said elections by writs, [he] shall forfeit one hundred pounds, money aforesaid, one-half to the governor, and the other half to him that shall sue for the same in manner aforesaid. And upon such neglect or refusal, the coroner of the respective county where the same shall happen, is hereby required, by himself or his deputy, to officiate and perform all that the said sheriff or his deputy ought to have done and performed at the said elections, according to the tenor and directions of this act; under the penalty of fifty pounds, to be recovered as aforesaid, one-half to the governor, and the other half to him that shall sue for the same.

And every sheriff or other officer not making good and true returns of the said elections of representatives or members of assembly according to the direction of this act, or refusing or willfully neglecting to do and perform what is hereby required to be done at and after the said elections, shall forfeit, for every such offense, the sum of one hundred pounds, money aforesaid, one-half thereof to the governor, and the other moiety to him that will sue for the same in manner aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That the representatives so chosen and met according to the direction of this act, shall be the assembly of this province, and shall have power to choose a Speaker and other their officers, and shall be judges of the qualifications and elections of their own members; sit upon their own adjournments, appoint committees, prepare bills in order to pass into laws, impeach criminals and redress grievances; and shall have all other powers and privileges of an assembly according to the rights of the freeborn subjects of England, and as is usual in any of the Queen's plantations in America.

And if any county or part of this province shall refuse or neglect to choose their respective representatives as aforesaid, or if chosen, do not meet to serve in assembly, those who are so

chosen and met shall have the full power of an assembly in as ample manner as if all the representatives had been chosen and met, provided they are not less than two-thirds of the whole that ought to meet.

[Section VI.] And be it further enacted by the authority aforesaid, That no person who shall be hereafter a member of the assembly or house of representatives of this province, shall be capable to vote in the said house, or sit there during any debate after their Speaker is chosen, until he shall make and subscribe the following declarations and profession of his Christian belief, viz.,

I A. B. do sincerely promise and solemnly declare before God and the world, that I will be faithful and bear true allegiance to Queen Anne. And I do solemnly profess and declare, that I do from my heart abhor, detest and renounce as impious and heretical that damnable doctrine and position, that princes excommunicated or deprived by the Pope or any authority of the See of Rome, may be deposed or murdered by their subjects or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state or potentate hath or ought to have any power, jurisdiction, superiority, pre-eminence or authority ecclesiastical or spiritual, within the realm of England or the dominions thereunto belonging.

And I A. B. do solemnly and sincerely in the presence of God profess, testify and declare, that I do believe that in the sacrament of the Lord's Supper there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ, at or after the consecration thereof by any person whatsoever; and that the invocation or adoration of the Virgin Mary or any other saint, and the sacrifice of the Mass, as they are now used in the Church of Rome, are superstitious and idolatrous.

And I do solemnly in the presence of God profess, testify and declare, that I do make this declaration and every part thereof in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any evasion, equivocation or mental reservation whatsoever, and without any dispensation already granted me for this purpose by the Pope or any other authority or person whatsoever, or without any hope of any such dispensation from any person or authority whatsoever; or without thinking I am or may be acquitted before God or man, or absolved of this declaration or

any part thereof, although the Pope or any other person or persons or power whatsoever should dispense with or annul the same, or declare that it was null or void from the beginning.

And I A. B. profess faith in God the Father, and in Jesus Christ, His Eternal Son, the true God, and in the Holy Spirit, one God blessed for evermore; and do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration.

Which said declarations and profession of faith shall be, in the next and every succeeding assembly to be held in this province, solemnly and publicly made and subscribed betwixt the hours of nine in the morning and four in the afternoon by every such member of the house of representatives at the table, in the middle of their house, and while a full house of representatives is there sitting with their Speaker in his chair; and during the making and subscribing thereof, all business and debates in the said house shall cease.

And the clerk of the assembly is hereby required to record the same in rolls or books prepared for that purpose; and every member of assembly shall pay the clerk for recording thereof five pence, and no more. And that the manner and method of making the said declarations shall be as followeth, to wit: the Speaker shall first read and subscribe the same, and after him every member, as he is called over, shall either read and subscribe the said declarations, or else subscribe them as they shall be read unto him by the clerk of the assembly.

[Section VII.] And be it enacted by the authority aforesaid, That no person whatsoever, who at any time shall be elected member of assembly in this province, and who shall make, and be willing and offer to make and subscribe the said declarations in manner and form aforesaid, shall be rejected or denied to sit, debate and act in the house of representatives or general assembly of this province.

Provided nevertheless, That nothing herein contained shall extend to, debar or hinder the house of representatives to reject such persons as are or shall be unduly elected members to serve in assembly, or such as the assembly or [the] major part of them shall see cause from time to time, by vote, to expel or disable to sit or serve there, by reason of ill practice in elections or misbehavior in the house.

[Section VIII.] And be it further enacted by the authority aforesaid, That every member chosen, or to be chosen, to serve in assembly as aforesaid, shall be allowed the sum of six shillings per day, and the Speaker ten shillings per day, during his and their attendance in the service thereof; and that every member of assembly shall be allowed towards his traveling charges after the rate of three pence a mile coming to and going from the place where the assembly is or shall be held.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed August 24, 1717, Chapter 222; March 30, 1723, Chapter 266; August 18, 1727, Chapter 298; August 13, 1732, Chapter 329; (the two Acts of) May 19, 1739, Chapters 350 and 356; February 3, 1742-43, Chapter 356; March 1, 1745-46, Chapter 364; March 11, 1752, Chapter 396; September 27, 1755, Chapter 404; September 29, 1759, Chapter 451; March 4, 1763, Chapter 489; February 8, 1766, Chapter 539; March 9, 1771, Chapter 619; February 26, 1773, Chapter 683; January 22, 1774, Chapter 696; March 3, 1776, Chapter 717; the Constitution of 1776; the Acts of Assembly passed January 21, 1777, Chapter 736; March 19, 1777, Chapter 751; June 14, 1777, Chapter 757; October 11, 1777, Chapter 764; December 27, 1777, Chapter 774; March 23, 1778, Chapter 790; September 24, 1779, Chapter 847; September 20, 1780, Chapter 914; September 20, 1782, Chapter 987, and March 27, 1784, Chapter 1086. Repealed by the Act of Assembly passed September 13, 1785, Chapter 1175.

CHAPTER CXXXVIII.

AN ACT FOR SELLING BEER AND ALE BY WINE MEASURE.

Whereas by a law of this province for regulating the dimensions of casks, &c., it is enacted (amongst other things) that a barrel shall contain thirty-one gallons wine measure; and whereas, by another law of this province for regulating of weights and measures it is (amongst other things) enacted that none shall sell beer or ale by retail, but by beer measure, according to the standard of England; by reason whereof the retailers of beer and ale are obliged to sell the same by far greater measure than they buy it: for remedy whereof:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, [by and] with the advice and consent of the freemen of the said Province, in General Assembly met, and by the authority of the same, That from and after the publication of this act, all persons which now are, or which at any time or times hereafter shall be licensed to keep any tavern, inn, ale-house or victualling-house within this province, shall sell beer and ale by wine measure to all persons as drink it in their houses, and by beer measure to all such persons as carry the same out of their houses, under the penalty of ten shillings to the use of the poor for every county where the offense¹ is committed, any law, custom or usage to the contrary in anywise notwithstanding.

[Section II.] Provided always, and be it further enacted by the authority aforesaid, That the above recited law, entitled "An act for regulating weights and measures," and every part and proviso therein contained, except the last clause thereof relating to selling beer and ale by beer measure, shall be and remain in full force, anything herein contained to the contrary notwithstanding.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III.

¹ In the editions of 1714, 1728 and 1742, this clause reads "under the penalty of ten shillings, to the use of the poor, for every offense, *being convicted thereof by one or more witnesses, before one or more justices of the peace of the county where the offense is committed.*" The italicized words do not appear in the original roll nor in the transcript Act Book A.

CHAPTER CXXXIX.

AN ACT FOR THE MORE EASY AND EFFECTUAL COLLECTING OF THE
PROPRIETARY'S QUIT-RENTS.

Whereas since the first location of lands in this province, the quit-rents reserved upon the several grants, as well before the date of the royal charter to the proprietary as since, have been very irregularly and uncertainly collected; not only to the great loss of the proprietor himself, who has thereby been kept out of his just rights, but also to the great inconveniency of the freeholders, by having no certain and exact accounts of their quit-rents kept, and being suffered, upon their negligence, to run so far in arrears, that the payment of what would be easy yearly becomes more grievous and burdensome when to be paid in one sum; and further, that upon the transferring of lands encumbered with quit-rents, the whole arrears often become an entire loss to the purchaser: for remedy whereof:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be always in this province a receiver-general appointed by the proprietary, his heirs or assigns, or (upon failure thereof, or in case of death or removal) by those that represent the proprietor, his heirs or assigns in this province, in matters of property, who shall hold an office, which shall be called the receiver-general's office for Pennsylvania; and either by himself or sufficient deputies, or other persons appointed by the proprietary, his heirs or assigns, or such as do or shall represent him or them in matters of property as aforesaid, by commissions or deputations (which, with the present receiver-general's commission and his deputations to the several collectors of quit-rents, shall be recorded in the office of enrollment in each county of this province) shall sit on some certain day or

days in the First month called March, yearly, at such place or places in the respective counties as is by the proprietor's patents appointed; of which time and place ten days' notice shall be by the respective receiver given and published, by affixing notes or advertisements in writing upon the doors of the public meeting-houses for religious worship in each county; and then and there receive all quit-rents due for such lands in each county from all and every the freeholders and others that possess and claim the same, who shall pursuant to their tenures be hereby obliged, at such time and place, to appear in person, or by their friends, and pay their arrears of rent. And the said several payments shall be duly entered in a fair roll, made and kept for every county, with each township in every county, and all the lands therein according to the said patents, in distinct entries; which shall be subjected to the view of every person, as far as they relate to any particular tract that such person is or may be in anywise concerned [in], either in his own right, or for or in right of others.

And in case any person, who so holds and claims any lands or lots in this province, shall neglect to appear as aforesaid and pay their quit-rents (notice being given as aforesaid) the receiver or collector may levy the same by distress, according as the law of England empowers and directs to distrain for rents. And if no distress can be found, the proprietary, his heirs or assigns, may sue for the rent or arrearages thereof in an action of debt at the respective county court, and shall recover the same as any other debt may be recovered by the laws of this government.

Provided always, That no such action, if the defendant fail of fully answering the debt, shall afterwards be a bar to the proprietary, his heirs or assigns, against recovering the same arrears that were sued for, off the land or lots from whence they accrued, by all such lawful means as might be done if such action had not been commenced. But where any person holding lands of the proprietary is not by patent, deed or contract obliged to pay his rent at any certain place, and after such notice of time and place given by the receiver or collector as aforesaid, refuses to pay the same accordingly, it shall be

lawful for such receiver or collector to distrain for the rent due before such demand; or for want of distress, the same shall be sued for as aforesaid. Saving to all persons that shall be wrongfully distrained upon or sued by color of this act all their legal pleas and remedies prescribed or allowed in such cases by the laws of England.

[Section II.] Provided always and it is hereby enacted, That every renter who is by patent or contract to pay his rent in wheat, shall deliver the same in good merchantable wheat into some convenient mill within a mile of any navigable water, which may best suit the said renter; and the miller's receipt for the same being produced to the receiver or collector, shall be accounted and taken as sufficient payment for so much as shall be therein mentioned, and the renter shall be discharged thereupon accordingly.

Provided also, That no person shall be distrained upon or sued for any rent or arrears of rent heretofore due, until six months be expired after the first demand thereof shall be made, or notice given as aforesaid, to the end that every one may have time to provide his receipts and proofs of payments, if any be made; and for that purpose he shall have free recourse to all rent rolls, books and accounts of all the receivers or collectors of quit-rents that can be found, to make out the payments where receipts cannot be produced: which said receivers and collectors, their executors and administrators, shall and are hereby required before the twenty-fourth day of the month called June in the year of our Lord one thousand seven hundred and six, to bring into the receiver-general's office at Philadelphia all the accounts of rents gathered, received or had by the said respective receivers or collectors or by their order, or true copies of such accounts not already brought in; and if any rents be thereby discovered, or otherwise made appear to be paid, or secured by obligation, or other specialty for that purpose, the same shall be allowed by the receiver-general or his deputy for the time being, or by such other person as shall be appointed to collect the proprietary's rents as aforesaid.

Provided also, That where receipts cannot be produced, nor any apparent credit in or by any of the said receiver's rolls,

books or accounts, or no other proof can be made of the payment of the rents or arrears of rents heretofore due, to the satisfaction of such receiver or collector, and yet the party declares the same is paid or secured as aforesaid in part or in all; then and in such cases, the receiver or officer shall not make distress for such rents or arrears, but may sue for the same; and the tenant or debtor shall be allowed to give his own affirmation, backed with probable circumstances or proof of others, in evidence to the jury for his discharge; and if such evidence be not to the satisfaction of the jury, they shall find for the plaintiff.

Provided also, That every obligation or specialty which hath been or shall be given for arrears of quit-rent, shall discharge the obligors of so much thereof, and be a bar to any action or avowry for the same.

[Section III.] And be it further enacted by the authority aforesaid, That none of the said quit-rents shall be multiplied, but the rent or sum first reserved shall be apportioned; and no person after he has given the receiver or collector a due account of what land he has alienated, and the same is entered in the roll as is hereinafter directed, shall be charged, distrained or sued for any more the said quit-rents than what shall be really due, or ought of right to be required and had, for the quantity of ground or number of acres which he or she respectively holds. And no person shall be charged or obliged to pay any quit-rents for such parts of his or her lands or lots as he or she shall have alienated or conveyed to another who resides upon any lands adjoining, upon the account of which he or she was before entered in the rent roll, after such time as the said alienation is entered into the said roll; which the receiver or officer, upon due notice had thereof, is hereby required to do.

Provided always, That no proportions or parts of quit-rents for lots or lands sold or alienated after the twenty-fifth day of the month called March in the year one thousand seven hundred and six, shall be less than twelve pence sterling for new renters, and one bushel of wheat for old renters; and upon alienations before the said twenty-fifth day of March, the receiver or his deputies shall not be obliged to receive for any part or parcel of lots or lands, less than three pence sterling

yearly, or one peck of wheat. And the receiver or his deputies are hereby required to enter into the respective rolls every such alienation as aforesaid; for which the under-purchaser who shall be so entered, shall pay one shilling.

And whereas divers persons who are not resident in this province have procured their lands to be located; where the same by the settlement of the neighboring inhabitants, are greatly improved in value, and yet have not paid quit-rents nor public charges, for want of some person on the place to answer for them:

[Section IV.] Be it therefore enacted by the authority aforesaid, That from and after the twenty-fifth day of the month called March which shall be in the year one thousand seven hundred and eight, where any tracts of lands or lots shall be in arrears for the quit-rents yearly arising thereupon, or for the provincial or county rates assessed or to be assessed or made payable for the same, it shall be lawful for the clerk of the county where such lands lie, in the name of the proprietor to sue such non-resident in the respective county court, as well for the arrears of quit-rent as taxes unpaid for the space of three years or more next before such suit; and if the defendant doth not, by himself or any other, appear to defend such suit and pay the said arrears of quit-rents and taxes, judgment shall be given against the defendant and execution shall be awarded, to be levied on so much of the said lands as shall satisfy the judgment, in the same manner as other lands, by the laws of this province, are to be taken and sold upon execution for the payment of debts; and so much of the money raised by such sale as shall be due for quit-rents, shall be by the sheriff paid to the proprietor or his receiver; and what shall be due for taxes shall be paid to the provincial or county treasurer respectively.

[Section V.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the justices of each county of this province to grant writs of replevin in all cases whatsoever where replevins may be granted by the laws of

England, taking security as the said law directs, and make them returnable to the respective courts of common pleas in the proper county, there to be determined according to law.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 19, 1739, Chapter 348. Repealed, except Section V, by the Act of Assembly passed November 28, 1779, Chapter 874. As to Section V, see the Acts of Assembly passed March 21, 1772, Chapter 645; April 3, 1779, Chapter 637; March 22, 1814, P. L. 190; March 22, 1817, P. L. 122; March 31, 1860, P. L. 399; May 15, 1871, P. L. 268.

CHAPTER CXL.

AN ACT ABOUT DEPARTERS OUT OF THIS PROVINCE.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That every person intending to depart or leave this province shall publish his or her intentions in writing, under one justice's hand, affixed on the door of the county court-house where he or she inhabits, thirty days before his or her departure; and shall have a pass under the province or county seal. And if any master of ship or vessel shall presume to convey or transport any person inhabiting in this province out of this government without such pass, such master or other person shall pay all damages that shall happen thereby.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III.

CHAPTER CXLI.

AN ACT FOR THE BETTER IMPROVING A GOOD CORRESPONDENCE
WITH THE INDIANS.

Whereas it is of great importance to the peace and welfare of the inhabitants of all these the Queen's dominions that a friendship be cultivated between her subjects and the native Indians, the first possessors of these lands, and that they may not only be strengthened and confirmed in the interest of the Crown of England and alienated from that of our enemies, but also be induced as much as may be by a kind and obliging treatment to embrace the Christian religion:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person shall kill, wound, beat or in any manner abuse any Indian or Indians inhabiting in this province, or that being at peace with us comes from any of the neighboring provinces or colonies upon lawful business, such person shall be subject to the same penalties and punishments as he should or ought to be if the same had been done to a natural-born subject of England; and shall, over and above, upon conviction be fined at the discretion of the justices before whom such conviction is made, in any sum not exceeding five pounds, for the support of government. And if any person shall, by such evidence either of Christians or Indians as may render it sufficiently credible, be convicted of spreading any such false news or stories as may alienate the minds of the Indians or any of them from this government, or create jealousies and fears in them concerning it, every such person shall forfeit the sum of twenty pounds, one-half thereof to the use aforesaid, and the other half to the informer, or him or them that shall sue for the same, and suffer six months' imprisonment; and upon their [*sic*] discharge shall

further give security for their good behavior, or otherwise continue prisoner till security [be] given.

[Section II.] And be it further enacted, That all necessary treaties shall be had and made with such Indians as aforesaid and their nations, and all necessary messages to them shall be ordered by the governor and council for the time being, at the charge of the public, [in] any sum not exceeding fifty pounds per annum to be defrayed upon a warrant from the governor and council by the provincial treasurer for the time being.

Provided always, That a just account of all such treaties and messages, with the charges thereof, shall be laid before the assembly of this province as often as they shall see cause to call for the same. And whereas great inconveniences to this government may arise by suffering all manner of persons without distinction to traffic, correspond with or reside amongst the Indians:

[Section III.] Be it enacted by the authority aforesaid, That after the twenty-fifth day of March, one thousand seven hundred and six, no persons whatsoever shall go abroad into the woods or from their own plantations, except to an English market-town or place to trade with any Indians, unless to buy corn, venison, provision or skins for necessary clothing of themselves or families, without a license for their so doing from the governor, by order of the governor and council to be continued for one whole year; upon the penalty of forfeiting all the goods carried out or brought home by them, and three months' imprisonment, one-half of the said goods to the informer, and the other half for the support of government.

Provided always, That no natural-born subject of the Crown of England shall be denied such a license as aforesaid, upon giving good security that they [*sic*] will honestly and truly trade with the Indians, and observe such general rules and orders as the governor and council shall from time to time think fit to make for the better regulating of the Indian trade, and shall pay for such license the sum of twenty shillings and no more.

Provided also, That such Indian traders may sell or dispose of their skins, furs or commodities bought of the Indians to any

person or persons within this province, but shall not carry any such commodities out of the province for sale.

And further that this act shall be and continue in force for the term of three years and no longer.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed February 28, 1710-11, Chapter 177.

CHAPTER CXLII.

AN ACT ABOUT ATTACHMENTS.

Whereas the laws of this government have hitherto been deficient in respect of attachments (so that the effects of persons absenting are not equally liable with those of persons dwelling upon the spot, to make restitution for debts contracted or owing within this province) to the great injury of the inhabitants thereof and encouragement of such unworthy persons as frequently by absconding make an advantage of the defect aforesaid, to prevent which inconveniency:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the justices of the respective county courts within this province shall, and are hereby empowered to grant writs of attachment; which attachments so granted shall be duly served by the respective sheriffs or coroners, as the case may require, upon the goods and chattels of such person or persons against whom the same shall be awarded, in whose hands or possession the same shall be found, returnable to the next succeeding court respectively, where the party may proceed to trial, and shall have judgment granted the third court after the effects are seized.

[Section II.] And be it further enacted by the authority aforesaid, That the person or persons whose goods or effects are so attached, shall be [called the] defendant in the attachment; and the person in whose hands or possession the same goods or effects are attached, shall be called the garnishee, and shall be obliged to appear in court at the return of the attachment, and answer what shall be objected against him, and abide the judgment of court; and shall be allowed, out of the effects attached, reasonable satisfaction for his attendance. And that the manner of executing writs shall be by the officers going to the house, or to the person in whose hands or possession the defendant's goods or effects are supposed to be, and then and there declare in the presence of one or more credible persons of the neighborhood, that he attacheth the same goods or other effects; from and after which declaration the goods, money or effects so attached, shall remain in the officer's power and be by him secured, in order to answer and abide the judgment of court in that case, unless the garnishee will give security therefor. And if the plaintiff in the attachment obtain a verdict, judgment and execution for the money and goods in the garnishee's possession, yet the defendant in the attachment may, at any time before the money be paid, put in bail to the plaintiff's action upon which the attachment is grounded; whereby the garnishee will and shall be immediately discharged. And if an attachment shall be made for goods or effects, and the garnishee plead he had no goods or effects in his hands at the time of the attachment or at any time after, and the plaintiff prove the contrary, the jury in such case being satisfied that the proof is plain and full, shall find for the plaintiff, and say what goods or effects they find in the garnishee's hands; whereupon judgment shall be entered, that appraisement may be made of the said goods or effects so found by the jury, and a precept shall be granted requiring the sheriff to get the same appraised; and if the garnishee will not produce them then execution shall be forthwith awarded for the value thereof according to appraisement; to be levied upon the lands, tenements, goods and chattels of the garnishee.

Provided always, That no writ of attachment shall hereafter

be granted against any person or person's effects, but such only as at the time of granting such writs are not resident or residing within this province, or are about to remove or make their escape out of the same, and shall refuse to give sufficient security to the complainant for his debt or other demand before he depart the said province.

Provided also, That after judgment obtained by the plaintiff upon any attachments against non-residents, the plaintiff shall, before sale and after execution is awarded, find security, who shall undertake for the plaintiff, that if the defendant in the attachment shall, within a year and a day next following, by himself or attorney come into court and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same, with costs, that then the plaintiff shall restore to the defendant the goods or effects, or [the] value thereof, by the plaintiff attached and condemned, or so much thereof as shall be disproved or discharged or else that they shall and will do it for him.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 2, 1722-3, Chapter 263; August 22, 1752, Chapter 399; January 22, 1774, Chapter 693; September 28, 1789, and Chapter 1445, supplied and repealed by the two Acts of Assembly passed June 13, 1838, P. L. 580 and 606.

CHAPTER CXLIII.

AN ACT FOR THE TRIAL OF NEGROES.

Whereas some difficulties have arisen within this province about the manner of trial and punishment of negroes committing murder, manslaughter, buggery, burglary, rapes, attempts of rapes and other high and heinous enormities and capital offenses; for remedy thereof, and for the speedy trial and condign punishment of such negro or negroes offending as aforesaid:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful for two justices of the peace of this province, who shall be particularly commissionated by the governor for that service, within the respective counties thereof, and six of the most substantial freeholders of the neighborhood, to hear, examine, try and determine all such offenses committed by any negro or negroes within this province; which said freeholders shall be, by warrant under the hands and seals of the respective justices commissionated as aforesaid, directed to the next constable, summoned to appear at such time and place as the said justices shall therein appoint: which freeholders the said justices shall solemnly attest, well and truly to give their assistance and judgment upon the trial of such negro or negroes; who shall hold a court for the hearing, trying, judging, determining and convicting of such negro or negroes as shall be before them charged or accused of committing any murder, manslaughter, buggery, burglary, rapes, attempts of rapes, or any other high or heinous offense committed, acted or done in any of the respective counties within this province as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That upon the holding of such court by the said justices and freeholders as aforesaid, it shall and may be lawful for the said justices and freeholders to examine, try, hear, judge, determine, convict, acquit or condemn, according to evidence and full proof, any negro or negroes, for any the crimes or offenses aforesaid, or any other high or capital offense; and, upon due proof and conviction, to pronounce such judgment or sentence in the premises as is agreeable to law and the nature of the offense; or otherwise to acquit, free and discharge such negro or negroes, in case the evidence shall not be sufficient for a conviction therein.

[Section III.] And be it further enacted by the authority aforesaid, That where such negro or negroes shall be convict, and

judgment or sentence shall be pronounced by the respective justices and freeholders as aforesaid, and a warrant by them signed and sealed, to be directed to the high-sheriff of the county where the fact was committed or tried, for the execution of such negro or negroes, the same shall be duly executed, or caused to be duly executed by the said sheriff, on pain of being disabled to act any longer in that post or office.

And if any of the said justices or freeholders neglect or delay to do their duty therein, they shall be liable to be fined by the governor and council, in any sum not exceeding five pounds; to be levied by distress and sale of the goods and chattels of such justices or freeholders so refusing as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That if any negro or negroes within this province shall commit a rape or ravishment upon any white woman or maid, or shall commit murder, buggery or burglary, they shall be tried as aforesaid, and shall be punished by death. And for an attempt of rape or ravishment on any white woman or maid, and for robbing, stealing, or fraudulently taking and carrying away any goods living or dead, above the value of five pounds, every negro, upon conviction of any of the said crimes, shall be whipped with thirty-nine lashes, and branded on the forehead with the letter R or T, and exported out of this province by the master or owner within six months after conviction, never to return into the same, upon pain of death; and shall be kept in prison till exportation, at their master's or owner's or their own charge. And for robbing or stealing any goods as aforesaid, under the value of five pounds, every negro, upon conviction thereof, shall be whipped at the discretion of the justices with any number of lashes not exceeding thirty-nine; and the master or owner of such negro shall make satisfaction to the party wronged for the value, and pay all costs; to be levied by distress and sale of the said master's or owner's goods, if he or they refuse or delay to answer it otherwise.

[Section V.] And be it further enacted by the authority aforesaid, That if any negro shall presume to carry any guns, sword, pistol, fowling piece, clubs or other arms or weapons whatsoever without his master's special license for the same, and be

convicted thereof before a magistrate, he shall be whipped with twenty-one lashes on his bare back.

[Section VI.] And be it further enacted by the authority aforesaid, That for the preventing negroes meeting and accompanying together upon the First-days of the week, or any other day or time, in great companies or numbers; that [sic] if any person or persons give notice thereof (and to whom they respectively belong) to any justice of the peace within this province, the same being above the number of four in company and upon no lawful business of their master's or owner's, such negroes so offending shall be publicly whipped at the discretion of one justice of the peace, not exceeding thirty-nine lashes.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. Repealed by an Act of Assembly passed March 1, 1780, Chapter 881.

CHAPTER CXLIV.

AN ACT TO PREVENT THE IMPORTATION OF INDIAN SLAVES.

Whereas the importation of Indian slaves from Carolina or other places hath been observed to give the Indians of this province some umbrage for suspicion and dissatisfaction:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if, after the twenty-fifth day of March, in the year one thousand seven hundred and six, any person shall import, or cause to be imported, any Indian slaves or servants whatsoever, from any province or colony in America into this province, by land or water, such only and their children (if any) excepted, as for the space of one year before such importation, shall be proved

to have been menial servants in the family of the importer, and are brought in together with the importer's family; every such slave or servant so here landed shall be forfeited to the government, and shall be either set at liberty or otherwise disposed of as the governor and council shall see cause.

Provided always, That no such Indian slave as, deserting his master's service elsewhere, shall fly into this province shall be understood or construed to be comprehended within this act.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed June 7, 1712, Chapter 192.

CHAPTER CXLV.

THE LAW ABOUT SEVEN YEARS' QUIET POSSESSION.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That seven years' quiet possession of lands within this province, which were first entered on upon an equitable right, shall forever give an unquestionable title to the same against all, during the estate whereof they are or shall be possessed; except in cases of infants, married women, lunatics and persons not residing within this province or territories.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed March 26, 1785, Chapter 1145.

CHAPTER CXLVI.

AN ACT FOR THE KILLING OF WOLVES.

For preventing the destruction of sheep and cattle by wolves:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person within this province shall kill a dog-wolf, he shall have ten shillings, and if a bitch-wolf, fifteen shillings; to be paid out of the county stock; provided such person brings the wolf's head to one of the justices of the peace of that county, who is to cause the ears and tongue of the said wolf to be cut off. And that the Indians, as well as others, shall be paid for killing of wolves accordingly.

[Section II.] And be it further enacted by the authority aforesaid, That all and every person or persons who are willing to make it their business to kill wolves, and shall enter into recognizance before two or more justices of the peace of the respective counties where he or they dwell, with sufficient security in the sum of five pounds, that he or they shall and will make it his or their sole business, at least three days in every week, to catch wolves, shall have twenty-five shillings for every wolf, dog or bitch, that he or they shall so catch and kill within the time mentioned in the said recognizance; to be paid out of the county levies where the wolves are taken as aforesaid.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 20, 1724-5, Chapter 284; May 10, 1729, Chapter 302; October 1, 1779, Chapter 651, and March 10, 1806, P. L. 411. Repealed by the Acts passed April 13, 1782, Chapter 972 and March 18, 1819, P. L. 114.

CHAPTER CXLVII.

AN ACT AGAINST MIXING AND ADULTERATING STRONG LIQUORS.

For the preventing of fraud in mixing and adulterating rum, brandy or such like spirits:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person within this province shall presume to sell rum, brandy or such like spirits, so adulterated or mixed with water or any other liquor, knowing the same to be so adulterated or mixed, being convict thereof by one or more credible witnesses, he or she shall, for every such offense, forfeit the said rum, brandy or spirits to be exposed to sale, and pay treble the value thereof, one moiety to the support of government, and the other moiety or half to him that shall discover and prosecute the same.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. Repealed by the Act of Assembly passed March 31, 1860, P. L. 451.

CHAPTER CXLVIII.

AN ACT FOR MARINERS NOT TO BE TRUSTED.

To the end that no mariners shall be arrested to hinder their voyage in any ship or other vessel to which they belong, bound out to sea:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William

Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person, ordinary-keepers or others within this province, shall trust any mariner belonging to any vessel above five shillings, unless the master of the ship or vessel to whom such mariner belongs engage for the same; upon the penalty of losing what they so trust, and of the sum of five pounds over and above, for each offense, one moiety thereof to the master or merchant injured, and the other to the governor; and shall further forfeit their license; except such mariner have goods on board the said vessel, or otherways to answer the same.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the porprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. Repealed by the Act of Assembly passed March 20, 1810, P. L. 188.

CHAPTER CXLIX.

AN ACT FOR COUNTY SEALS AND AGAINST COUNTERFEITING HANDS AND SEALS.

[Section 1.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be a county seal in every county of this province, for the use of each county; and if any person within the said province shall be convicted of counterfeiting the hand or seal of another with intent to defraud, such person shall suffer three months' imprisonment at hard labor, and be fined treble the value he or she shall have defrauded, or attempted to have de-

frauded thereby, to the use of the party wronged. And whosoever shall counterfeit the privy or broad seal of the said province, being convicted thereof, shall suffer seven years' imprisonment as aforesaid, and be fined at the discretion of the court where such party shall be convicted, in any sum not exceeding one hundred pounds, to the support of the government.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed April 15, 1734, P. L. 538, and March 31, 1860, P. L. 423. Repealed by the Act of March 31, 1860, P. L. 451.

CHAPTER CL.

AN ACT FOR DEFALCATION.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if two or more dealing together be indebted to each other upon bonds, bills, bargains, promises, accounts or the like, and one of them commence an action in any court of this province, if the defendant cannot gainsay the deed, bargain or assumption, upon which he is sued, it shall be lawful for such defendant to plead payment of all or part of the debt or sum demanded, and give any bond, bill, receipt, account or bargain in evidence; and if it shall appear that the defendant hath fully paid or satisfied the debt or sum demanded, the jury shall find for the defendant, and judgment shall be entered, that the plaintiff shall take nothing by his writ and shall pay the costs. And if it shall appear that any part of the sum demanded be paid, then so much as is found to be paid shall be defalked, and the plaintiff shall have judgment for the residue only, with costs of suit. But if it appear to the jury that the plaintiff is over paid, then

they shall give in their verdict for the defendant, and withal certify to the court how much they find the plaintiff to be indebted [to] or in arrear to the defendant more than will answer the debt or sum demanded; and the sum or sums so certified shall be recorded with the verdict, and shall be deemed as a debt of record; and if the plaintiff refuse to pay the same, the defendant, for recovery thereof, shall have a *scire facias* against the plaintiff in the said action, and have execution for the same, with the costs of that action.

Provided always, That in all cases where a tender shall be made, and full payment offered by discount or otherwise in such specie as the party by contract or agreement ought to do, and the party to whom such tender shall be made doth refuse the same, and yet afterward will sue for the debt or goods so tendered, the plaintiff shall not recover any costs in such suit.

Provided also, That in all cases where the plaintiff and defendant having accounts to produce one against another shall, by themselves or attorneys or agents, consent to a rule of court for referring the adjustment thereof to certain persons mutually chosen by them in open court, the award or report of such referees being made according to the submission of the parties and approved of by the court and entered upon the record or roll, shall have the same effect and shall be deemed and taken to be as available in law as a verdict given by twelve men; and the party to whom any sum or sums of money are thereby awarded to be paid, shall have judgment, or a *scire facias*, for the recovery thereof, as the case may require and as is herein-before directed concerning sums found and settled by jury, any law or usage to the contrary of this act in anywise notwithstanding.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed February 27, 1797, Chapter 1920; April 6, 1802, P. L. 186; April 3, 1804, P. L. 522; March 18, 1812, P. L. 124; March 20, 1810, P. L. 145; March 30, 1811, P. L. 145; March 26, 1814, P. L. 218; June 13, 1836, P. L. 614; April 12, 1848, P. L. 537; April 9, 1849, Appendix to P. L. 1850, 1005; June 16, 1866, P. L. 719, and April 19, 1883, P. L. 10.

CHAPTER CLI.

AN ACT FOR BAILING OF PRISONERS AND ABOUT IMPRISONMENT.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all prisoners shall be bailable by one or more sufficient sureties, to be taken by one or more of the judges or justices that have cognizance of the fact, unless for such offenses as are or shall be made felonies of death by the laws of this province. And at least every half year there shall be a gaol-delivery in every county of this province, where imprisonment is not the punishment: and that gaolers shall not oppress their prisoners; and that all prisoners shall be free as to room; and all prisoners shall have liberty to provide themselves with bedding, food and other necessaries during their imprisonment. And that the public allowance shall be two pence per day, and no more. And that the respective prisons shall be work-houses (until others are provided) for felons, thieves, vagrants and loose and idle persons, whereof one shall be in each respective county of this province. And that no person or persons shall be obliged to answer to any indictment or presentment, unless the prosecutor's name be inserted thereon. And if any person or persons shall be imprisoned or prosecuted without probable cause, he, she or they shall have double damages against the informer or prosecutor to be recovered by an action at common law.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III.

CHAPTER CLII.

AN ACT FOR TAKING LANDS IN EXECUTION FOR PAYMENT OF DEBTS.

To the end that no creditors may be defrauded of their just debts due to them from persons who have sufficient real if not personal estates to satisfy the same:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all such lands, tenements and hereditaments whatsoever within this province, where no sufficient personal estate can be found, shall be liable to be seized and sold, upon judgment and execution obtained.

Provided always, That when any debt is hereafter recovered, and damages awarded, or when any debt is acknowledged before such as have or shall have power to take cognizance thereof, and executions awarded thereupon, to be levied upon the lands, tenements or hereditaments of any person or persons whatsoever, it shall not be lawful for any sheriff or other officer, by virtue of such executions, or of any writ or writs thereupon, to sell or expose to sale any such lands, tenements or hereditaments in this province, which shall or may yield yearly rents or profits, beyond all reprizes sufficient within the space of seven years to pay or satisfy such debts or damages, with costs of suit; but that all those lands, tenements and hereditaments shall, by virtue of the writ or writs of execution, be delivered to the party obtaining the same, until the debt or damages be levied by a reasonable extent, in the same manner and method as lands are delivered upon writs of *elegit* in England.

Provided nevertheless, That if the clear profits of such lands or tenements shall not be found, by inquest of twelve men, to be sufficient within seven years to satisfy the debt or damages in such executions; or if, before the extent be out any other

debts or damages shall be recovered against the same debtor or defendant, his heirs, executors or administrators, which, with what remains due upon such extent, cannot all be satisfied out of the yearly profits of the lands or tenements so extended within seven years, then and in every such case, the sheriff or other officer shall accordingly certify the same upon the return of such executions; whereupon writ or writs of *venditioni exponas* shall issue forth, to sell such lands and tenements for and towards satisfaction of what shall so remain due upon such extent, as also towards satisfaction of all the rest of the said debts or damages, in manner as is hereinafter directed concerning the sale of other lands.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the sheriff or other officer, by a writ of *levavi facias*, to seize and take all other lands, tenements and hereditaments in execution, and thereupon with all convenient speed, either with or without any writ of *venditioni exponas* to make public sale thereof for the most they will yield and pay the price or value of the same to the party towards satisfaction of his debt, damages and costs. But before any such sale be made, the sheriff or other officer shall cause so many writings to be made, upon parchment or good paper, as the debtor or defendant shall reasonably desire or request, or so many without such request as may be sufficient to signify and give notice of such sales or vendues, and of the day and hour when and the place where the same will be, and what lands or tenements are to be so sold, and where they lie; which notice shall be given to the defendant, and the said parchments or papers fixed by the sheriff or other officer in the most public places of the county or city, at least ten days before sale; and upon such sale the sheriff or other officer shall make return thereof, endorsed or annexed to the said *levavi facias*, and give the buyer a deed, duly executed and acknowledged in court, for what is sold, as has been heretofore used upon the sheriff's sale of lands. But in case the said lands and hereditaments so to be exposed cannot be sold, then the officer shall make return upon the writ, that he exposed such lands or tenements to sale, and the same remained in his hands unsold for want of buyers;

which return shall not make the officer liable to answer the debt or damages contained in such writ, but a writ called *liberari facias* shall forthwith be awarded, and directed to the proper officer, commanding him to deliver to the party such part or parts of those lands, tenements and hereditaments as shall satisfy his debt, damages and interest from the time of the judgment given, with costs of suit, according to the valuation of twelve men; to hold to him as his free tenement in satisfaction of his debt, damages and costs, or so much thereof as those lands by the valuation thereof as aforesaid, shall amount unto. And if it fall short, the party may afterwards have execution for the residue against the defendant's body, lands or goods, as the laws of this province shall direct and appoint from time to time concerning other executions. All which said lands, tenements, hereditaments and premises, so as aforesaid to be sold or delivered by the sheriff or officer aforesaid, with all their appurtenances, shall and may be quietly and peaceably held and enjoyed by the person or persons or bodies politic to whom the same shall be sold or delivered, and by his and their heirs, successors or assigns, as fully and amply, and for such estate and estates and under such rents and services as he or they, for whose debt or duty the same shall be so sold or delivered, might, could or ought to do at or before the taking thereof in execution.

Provided always, That the messuage, lands or tenements upon which the defendant is chiefly seated shall not be exposed to sale before the expiration of one whole year after judgment is given, to the intent that the defendant, or any other for him, may redeem the same.

And forasmuch as divers persons have mortgaged their lands and tenements in this province for securing the payment of moneys, and some of them have died before the time of payment, and left others to succeed them, that have proved insolvent; and others have neglected to pay the mortgage-money; and so mortgages are become no effectual security, considering how low the annual profits of tenements and improved lands are here, and the discouragements which the mortgagees meet with by reason of the equity of redemption remaining in the mortgagors:

[Section III.] Be it therefore enacted by the authority aforesaid, That where default or defaults have been or shall be made or suffered by any mortgagor or mortgagors of any lands, tenements or other hereditaments within this province, or by his, her or their heirs, executors, administrators and assigns, of or in payment of the mortgage-money, or performance of the condition or conditions which they or any of them should have paid or performed, or ought to pay or perform in such manner and form and according to the purport, tenor and effect of the respective provisos, conditions or covenants comprised in their deeds of mortgage or defeasance, and at the days, times and places in the same deeds respectively mentioned and contained; that in every such case it shall and may be lawful to and for the mortgagee or mortgagees, and him, her or them that grant the said deeds of defeasance; and his, her and their heirs, executors, administrators or assigns, at any time after the expiration of twelve months next ensuing the last day whereon the said mortgage-money ought to be paid, or other conditions performed as aforesaid, to sue forth a writ or writs of *scire facias*, which the clerk of the court of common pleas for the county or city where the said mortgaged lands or hereditaments lie, and he is hereby empowered and required to make out and dispatch, directed to the proper officer, requiring him, by honest and lawful men of the neighborhood, to make known to the mortgagor or mortgagors, his, her or their heirs, executors or administrators, that he or they be and appear before the magistrates, judges or justices of the said court or courts, to show if anything he or they have to say wherefore the said mortgaged premises ought not to be seized and taken in execution for payment of the said mortgage-money, with interest, or to satisfy the damages which the plaintiff in such *scire facias* shall upon the record suggest for the breach or non-performance of the said conditions. And if the defendant in such *scire facias* appears, he or she may plead satisfaction or payment of part or all the mortgage-money, or any other lawful plea, in avoidance of the deed or debt, as the case may require; but if the defendants in such *scire facias* will not appear on the day whereon the same writ shall be made returnable, then, if the case be such as damages

only are to be recovered, an inquest shall be forthwith charged to inquire thereof, and the definitive judgment therein, as well as all other judgments to be given upon such *scire facias*, shall be entered, that the plaintiff in the *scire facias* shall have execution by *levari facias*, directed to the proper officer; by virtue whereof the said mortgaged premises shall be taken in execution, and exposed to sale in manner aforesaid; and upon sale, conveyed to the buyer or buyers thereof, and the money or price of the same rendered to the mortgagee or creditor; but for want of buyers, to be delivered and [sic] to the mortgagee or creditor in manner and form as is herein above directed concerning other lands and hereditaments to be sold or delivered upon executions for other debts or damages; and when the said lands and hereditaments shall be so sold or delivered as aforesaid, the person or persons to whom they shall be so sold or delivered shall and may hold and enjoy the same, with their appurtenances, for such estate or estates as they were sold or delivered, clearly discharged and freed from all equity and benefit of redemption and all other encumbrances made and suffered by the mortgagors, their heirs or assigns; and such sales shall be available in law, and the respective vendees, mortgagees or creditors, their heirs and assigns, shall hold and enjoy the same, freed and discharged as aforesaid; but before such sales be made, notice shall be given in writing in manner and form as is hereinabove directed concerning the sales of lands upon executions, any law or usage to the contrary notwithstanding.

[Section IV.] Provided also, and be it further enacted by the authority aforesaid, That when any of the said lands, tenements or hereditaments which by the direction and authority of this act are to be sold for payment of debts and damages in manner aforesaid, shall be sold for more than will satisfy the same debts or damages, and reasonable costs, then the sheriff or other officer who shall make the sale must render the overplus to the debtor or defendant; and then, and not before, the said officer shall be discharged thereof upon record, in the same court where he shall make return of his proceedings concerning the said sales.

Provided also, That no sale or delivery which shall be made by virtue of this act shall be extended to create any further term or estate to the vendees, mortgagees or creditors than the lands or hereditaments so sold or delivered shall appear to be mortgaged for by the said respective mortgages or defeasible deeds.

Provided also, That if any of the said judgments which do or shall warrant the awarding of the said writs of execution whereupon any lands, tenements or hereditaments have been or shall be sold, shall at any time hereafter be reversed for any error or errors; then and in every such case, none of the said lands, tenements or hereditaments so as aforesaid taken or sold, or to be taken or sold upon executions, nor any part thereof, shall be restored, nor the sheriff's sale or delivery thereof avoided, but restitution [shall be made], in such cases only of the money or price for which such lands were or shall be sold.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See the Acts passed August 27, 1727, Chapter 299; March 23, 1764, Chapter 510; February 24, 1770, Chapter 604; March 6, 1820, P. L. 50; April 6, 1830, P. L. 293; June 16, 1836, P. L. 761.

CHAPTER CLI.

AN ACT ABOUT ARRESTS AND MAKING DEBTORS PAY BY SERVITUDE.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That in case any person arrest another going out of this government, he shall be ready with his declaration and evidence the next day, and shall put in security to pay the charges and damages sustained by the party arrested, if he shall be found in the wrong; and that all persons of known estates (refusing to pay

their just debts) if arrested and imprisoned, shall be kept in at their own charges until security be given or satisfaction be made.

Provided always, That no person shall be kept in prison for debts or fines, longer than the second day of the next sessions after his or her commitment, unless the plaintiff shall make it appear that the person imprisoned hath some estate that he will not produce; in which case the court shall examine all persons suspected to be privy to the concealing of such estate; and if no estate sufficient shall be found, the debtor shall make satisfaction by servitude according to the judgment of the court where such action is tried (not exceeding seven years, if a single person and under the age of fifty-and-three years; or five years, if a married man and under the age of forty-and-six years) if the plaintiff require it; but if the plaintiff refuse such manner of satisfaction according to the judgment of the court as aforesaid, then and in such case the prisoner shall be discharged in open court.

Provided always, That nothing in this act contained shall be construed to subject any master of ship or other vessel trading into this province from other parts, to make satisfaction for debt by servitude as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That no freeholder inhabiting in this province shall be taken for debt before trial, unless he or she be about to depart out of the same, and refuse to give sufficient bail for his or her appearance at the next court, or security for the payment of the debt; and that in such case, before any warrant of arrest be granted, the plaintiff shall declare before those who are empowered to grant the same, that he or she believeth in his or her conscience that his or her cause or action is just, and his or her declaration and evidence are ready for trial if the defendant shall pray a special court; and that in all other cases of debt or damages relating to freeholders residing in this province, the process and proceedings shall be by summons only, as by a former law of this province.

Provided always, That this law shall not be extended nor be in force against any member of the governor's council or assem-

bly of this province during the sitting of the assembly, and fourteen days before and five days after rising.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See the Acts of Assembly passed March 30, 1723-24, Chapter 266; March 20, 1724-25, Chapter 285. Repealed by the Act of Assembly passed February 14, 1729-30, Chapter 315. Partially revived by the Act of February 6, 1730-31, Chapter 321. Repealed by the Act of Assembly passed March 20, 1810, P. L. 188.

CHAPTER CLIV.

AN ACT FOR THE RELIEF OF THE POOR.

For the better relief of the poor of this province.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the justices of the peace of the respective counties of this province, or any three or more of them shall, on the five-and-twentieth day of March yearly (unless that shall happen on the First day of the week, and then on the day following) meet at some convenient place within their county, and there nominate and appoint one, two or more (as the case may require) of [the] substantial inhabitants of the respective townships; and where the townships are small and inhabitants few, two or more, as the justices shall think fit, may be joined together within their county to be overseers of the poor of the said townships for the year ensuing.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the overseer or overseers of the poor so nominated and appointed to make or lay a rate or assessment after the rate of one penny per pound, clear value, of the real and personal estates of all and every the free-

holders and inhabitants within their respective townships, to be employed for the relief of poor, indigent and impotent persons inhabiting within the said townships, in such manner as by this act is directed and appointed; and four shillings per head on all freemen not otherwise rated.

[Section III.] And be it further enacted by the authority aforesaid, That the said overseers, before they proceed to the collecting of the said rate, shall procure the same to be allowed by three or more justices of the peace of the county wherein the said tax is made. And if any person or persons so rated or assessed shall refuse to pay the sum or sums on them charged, that it shall and may be lawful to and for the said overseer or overseers (having first obtained a warrant under the hands and seals of two justices of the peace of the county where the said assessment is made who are hereby empowered to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing; and in case such person shall not, within three days next after such distress made, pay the sum or sums on him assessed, together with the charge of such distress, that the said overseer or overseers may proceed to the sale of the goods distrained, rendering to the owner the overplus (if any) that shall remain on such sale, reasonable charges first deducted: and in case such person or persons have no goods or chattels whereby they may be distrained, that then it shall be lawful for the said justices to commit the offenders to prison, there to remain without bail or mainprize until they have paid the same.

Provided always, That if any person or persons find themselves aggrieved with such rate or assessment, that then it shall be lawful for the justices of the peace, at their next general quarter-sessions, upon petition of the party, to take such order therein as to them shall be thought convenient, and the same to conclude and bind all parties; and the overseer or overseers shall forbear such distress till the same be determined in the quarter-sessions.

[Section IV.] And be it further enacted by the authority aforesaid, That the said overseers shall lay the said rate according to the best of their skill and judgment, wherein they shall be

guided by the county assessment on other occasions, having due regard to every man's estate without favor or affection to any.

[Section V.] And be it further enacted by the authority aforesaid, That the father and grandfather and the mother and grandmother and the children of every poor, old, blind, lame and impotent person, or other poor person not able to work, being of a sufficient ability, shall at their own charges relieve and maintain every such poor person as the justices of the peace at their general quarter-sessions shall order and direct, on pain of forfeiting forty shillings for every month they shall fail therein.

[Section VI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said overseers of the poor by the approbation and consent of two or more justices of the peace, to set on work the children of all such whose parents shall not be by the said justices thought able to maintain them; and also to put such children out apprentices for such term as they may in their discretion shall see meet.

[Section VII.] And be it further enacted by the authority aforesaid, That no person or persons shall be admitted or entered in the poor's books, or receive relief from the overseers of the poor, before such person or persons have procured an order from two justices of the peace for the same; and in case the said overseers shall enter into their books, or relieve any such poor person or persons without such order, they shall forfeit all such money or goods so paid or distributed, unless the justices shall approve and allow the same upon making up their accounts.

[Section VIII.] And be it further enacted by the authority aforesaid, That the justices of the peace of the said respective counties shall, at least ten days before the said twenty-fifth day of March yearly, issue out their warrants, directed to the overseers of the poor of the respective townships within their county, commanding the said overseers to appear before them on the said day and produce their accounts of what money they have received and disbursed for the use of the poor, and also to return the names of one or two or more (as the place may require) of the sufficient inhabitants of their respective town-

ships, to succeed them in that office for the year ensuing: and in case the overseers shall neglect to bring in such their accounts, as also the names of such sufficient persons to succeed them in that office the year ensuing, such person or persons so neglecting shall serve in that office one year longer or otherwise forfeit any sum not exceeding fifty pounds, as the said justices shall think fit and direct. And in case the person or persons approved on and appointed by the said justices to be overseers of the poor of any township within the respective counties, shall refuse to take upon him or them the said office, and to do his and their duty therein, he or they shall forfeit the sum of five pounds each; which said forfeitures shall go and be to the use of the poor of the town or place where such neglect or refusal shall be made, and shall be levied by the constable, by warrant from any two justices of the peace of the said county under their hands and seals, on the goods and chattels of such person or persons so neglecting or refusing, and by the constable sold within three days next after such distress made; and if there happen any overplus upon sale thereof, the same shall be paid to the person or persons to whom the same shall belong, reasonable charges first deducted. And if such person or persons so neglecting or refusing as aforesaid, shall not have goods or chattels whereby he or they may be distrained as aforesaid, that then the said justices may commit the offender or offenders to prison there to remain without bail or mainprize till the said forfeitures shall be by them fully satisfied and paid.

[Section IX.] And be it further enacted by the authority aforesaid, That the mayor and aldermen of the city of Philadelphia shall have the same power and authority, by virtue of this act, within the limits and precincts of their jurisdiction, as well out of sessions as at their sessions, as is herein limited, prescribed and appointed to the justices of the peace of the county.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed May 31, 1718, Chapter 287; March 29, 1734-35, Chapter 336, and August 19, 1749, Chapter 379. Repealed by the Act of Assembly passed March 9, 1771, Chapter 635. For acts relating to the poor in Philadelphia county during the time this act was in force, see Chapters 534, 552, 567, 573, 579 and 596.

CHAPTER CLV.

AN ACT FOR CONFIRMING THE SALES OF LANDS BY ATTORNEYS OR AGENTS, AND FOR ASCERTAINING THE PROOF OF INSTRUMENTS OR WRITINGS MADE OUT OF THIS PROVINCE.

Whereas divers persons living out of this province are and have been owners of lands within the same, and such persons have usually appointed attorneys to sell and dispose thereof; to the end therefore that those who have so purchased and their heirs or assigns forever hereafter be secured in their titles and estates:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all sales of lands, tenements and hereditaments, formerly made by any attorneys or agents who have been appointed such by any person or persons who had right so to do, and especially giving them power or directions therein to sell or convey lands, are and shall be deemed and adjudged good and effectual in law to all intents, constructions and purposes whatsoever, as fully as if the said owners of such lands had, by their own deeds, bargains and sales, actually and really sold and conveyed the same; and all and singular the lands, tenements and hereditaments sold and conveyed as aforesaid, shall be and remain to such purchaser respectively, their heirs and assigns forever, as they were or ought to have been to the owner or owners of such lands and premises, so employing his or their attorneys or agents as aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That all and every bonds, specialties, letters of attorney and other powers in writing which shall be produced in any court or before any magistrate in this province, the execution whereof being proved by two or more of the witnesses there-

unto, before any mayor or chief magistrate or officer of the cities, towns or places where such bonds, letters of attorney or other writings are or shall be made or executed, and accordingly certified under the common or public seal of the cities, towns or places where the said bonds, letters of attorney or other writings are so proved respectively, shall be taken and adjudged as sufficient in law as if the witnesses therein named had been present, and such certification shall be sufficient evidence to the court and jury for the proof thereof.

[Section III.] And be it further enacted by the authority aforesaid, that all sales or conveyances of lands, tenements or hereditaments which shall hereafter be made by virtue of any letters or powers of attorney or agency duly executed, which do or shall expressly give power to sell lands or other estates, and be certified to have been proved as aforesaid, or shall be proved in this province before any justice of the peace by one or more of the witnesses thereto, shall be good and effectual in law to all intents, constructions and purposes whatsoever, as if the said constituent or constituents had by their own deeds, bargains and sales actually and really sold and conveyed the same.

Provided always, That no sale of lands, tenements and hereditaments made by virtue of such power or powers of attorney or agency as aforesaid, shall be good and effectual, unless such sale be made and executed while such power is in force; and all such powers shall be accounted, deemed and taken to be in force until the attorney or agent shall have due notice of a countermand, revocation or death of the constituent.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III and the Acts of Assembly passed February 24, 1770, Chapter 605; January 16, 1827, P. L. 9; April 3, 1840, P. L. 233; March 14, 1850, P. L. 195; December 14, 1854, P. L. 1855, 724, and March 20, 1860, P. L. 204.

CHAPTER CLVI.

AN ADDITIONAL ACT FOR THE BETTER PRESERVING THE HIGHWAYS.

For the better amending, repairing and preserving of the highways, now generally spoiled by the extraordinary and unreasonable lading of wagons and other carriages, and drawing the same with horses at length:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's Royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same. That from and after the first day of May which shall be in the year of our Lord one thousand seven hundred and six, no traveling wagon, wain, cart or other sort of carriage whatsoever going from or coming to the city of Philadelphia, between the rivers Delaware and Schuylkill, in the county of Philadelphia, wherein any burdens, goods or wares are or shall be carried, shall at any one time travel or be drawn or go in any common or public highway or road with above three horse beasts at length. And if any person or persons shall cause any such wagon, wain, cart or carriage to be drawn with a greater number of horses or oxen, then and in such case the horses or oxen shall all draw in pairs: (That is to say) two a breast, for such a number as they shall use, except one horse, any law, statute or usage to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That every owner of any wagon, cart, carriage, horse, beasts or oxen offending contrary to this act, being legally convicted before any one justice of the peace by proof of one credible witness, or upon view of the justice himself, shall forfeit for every such offense the sum of forty shillings, one-half part thereof to the surveyors of the highways where the offense shall be committed, to be employed in the repair of the said high-

way[s]; and the other moiety to him that shall discover the same: which fine shall be levied by the constable of such place or division, or by any other officer, by warrant under the hand and seal of such justice of the peace, upon the goods and chattels of the person so offending, rendering the overplus to the owner thereof, all necessary charges in levying the same being first deducted.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 27, 1712-13, Chapter 198. Repealed by the Acts of Assembly passed May 18, 1765, Chapter 526 and March 21, 1772, Chapter 653.

CHAPTER CLVII.

A SUPPLEMENTARY ACT TO THAT ABOUT RAISING COUNTY LEVIES.

Whereas by the law entitled "An act for raising county levies,"¹ it is provided that if any person or persons do, within four weeks after they are assessed, find him or themselves aggrieved thereby, they may have privilege to complain to the assessors who are in the said act directed to meet and sit on the same day of the week on which they made such assessment, four weeks after the same shall be made, to hear such complaints, and may thereupon abate, defalk or increase the said assessment, as the complainant shall appear to be worth, either by the party's own attest or proof of others; but no direction therein being given, how the inhabitants rated or assessed, by virtue of the said act, shall have the knowledge of what their rate or assessment amounts to, for want of which great difficulties have arisen about the execution of the said act, therefore for the preventing the same for the future:

[Section I.] Be it enacted by John Evans, Esquire, by and with Her Majesty's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and

¹ Passed November 27, 1700, Chapter XXXII.

with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That every collector appointed by the assessors in each respective county, pursuant to the aforesaid law, shall by such assessors have particular parts of the county allotted them, for which they shall be appointed collectors; and the said assessors shall, at the time of making the assessment, order the clerk fairly to draw and deliver to the respective collectors particular duplicates, showing therein what every person is rated or assessed within the limits for which he is appointed collector as aforesaid; which collectors shall, within three weeks after they shall receive such duplicates, acquaint every person assessed in their respective limits what their particular assessments amount to, making demand for the same, as the said law directs; and also acquaint them when the assessors, according to law, are to meet to hear the complaints of any who may find themselves aggrieved by such assessment. And the said collectors shall fully complete and finish the collecting such assessment as the said law otherwise directs, for which they are as aforesaid appointed, within such reasonable time as the said assessors shall limit and appoint them after the set time to hear complaints is passed and over; and for the writing and delivering such duplicates and warrants, the clerk of Philadelphia shall have fifty shillings, and the clerks of Bucks and Chester shall have twenty-five shillings each, and no more, any law, usage or custom to the contrary thereof in anywise notwithstanding.

And whereas the fall court in the county of Chester, which was formerly held on the month of September, is since as by a law made and passed in the year one thousand seven hundred and one held and kept on the last Third day of the week in the month called August:

[Section II.] It is therefore enacted by the authority aforesaid, That the justices, grand jury, assessors and treasurer of the said county shall do and execute at the said Sixth month court or oftener if occasion be, all the powers given them by the aforesaid law, entitled "An act for raising county levies;"

which law in all other respects is hereby declared to be in and remain in force.

And for the preventing for the future the respective counties of this province being indebted with divers long-hidden and unknown debts or otherwise:

[Section III.] It is therefore enacted by the authority aforesaid, That where any person or persons hath, at the publication of this act, any debts due to them from the counties of Philadelphia and Bucks, and do not by themselves or friends bring in their respective accounts to the Seventh month county courts which shall be held either before or in the year one thousand seven hundred and seven in their respective counties, in order to be allowed and paid as the law directs (by the justices, grand-jury and assessors); as also where any person or persons hath any debts due from the county of Chester, and do not bring in their accounts to the Sixth month court, to be held in the year aforesaid to the end aforesaid all or any such person or persons shall be for ever after debarred from claiming and recovering any such debts.

[Section IV.] And be it further enacted, That where any person or persons shall hereafter have any debts due from any of the said respective counties, and do not by themselves or friends bring in their accounts by the next, save one, succeeding court on the months respectively as aforesaid after such debts are become due, in order to be allowed and paid as aforesaid, such person or persons shall also be forever debarred from claiming or recovering any such debts, any law, usage or custom to the contrary hereof in anywise notwithstanding.

[Section V.] Be it further enacted by the authority aforesaid, That where any person or persons have, or shall at any time hereafter produce to the county court to which he belongs, any account of debt or debts due to him from the said county, so as that such debt be not then justly disapproved by the justices and assessors, in such case the justices or assessors are hereby required to allow all such accounts, and to certify the same by endorsement on every such account, under the hands of at least four of them, and then deliver the same to the person or persons to whom such debt or account is due as aforesaid; which

debt shall, at the request of the person or persons concerned, be by the respective collectors, from time to time, defalked or discounted out of the county assessments or levies to which he, she or they belong, until such debt be fully paid, either by the treasurers according to law or fully discounted as aforesaid, any law, usage or custom to the contrary hereof in anywise notwithstanding.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed June 7, 1712, Chapter 184. Repealed by the Acts of Assembly passed February 23, 1717-18, Chapter 231, and March 20, 1724-25, Chapter 284.

CHAPTER CLVIII.

AN ACT TO PREVENT THE RUNNING OF SWINE AT LARGE.

Whereas the freeholders and owners of lands and plantations within this province have received great damage and spoil in their cornfields, meadows and out-lands, by swine running at large without rings and yokes, for the prevention whereof for the future:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the first day of the Twelfth month, called February, next ensuing the publication hereof, no swine shall be suffered to run at large without rings and yokes, under the penalty of forfeiting half the value thereof, to the use hereafter expressed. Therefore if any person or persons who shall find on his, her or their lands, within fourteen miles of the navigable parts of the river Delaware, any swine, hog or hogs, shoat or shoats, or pigs, without rings in their noses, sufficient to prevent their turning up the ground, and triangular or three cor-

nered yokes or bows about their necks, and to extend at least six inches from the angular point or corner, sufficient to keep them from breaking through fence[s], it shall and may be lawful for him, her or them, all such swine, hogs, shoats or pigs to kill and take, and drive and carry away or to cause them to be killed, taken, driven or carried away; and being so taken and carried away the said takers shall forthwith acquaint a justice of the peace thereof, and being by him legally attested that the said swine were taken as aforesaid without yokes or bows and rings, the said justice shall immediately appoint and order two indifferent persons of the neighborhood to view and make a just and reasonable appraisement of all such swine, hogs, shoats or pigs, and to make return of their value, number and marks unto the said justice of the peace, as soon as conveniently it may be done after such appraisement, one moiety or half the value whereof shall be forfeit to the person or persons, owners or possessors of such lands where found and taken; and he or they that shall take up such swine as aforesaid shall pay unto the said justice of the peace, for the use of the owner or owners of such swine, the other moiety or half part thereof; and thereupon the property of all such swine shall be and remain in the said owner or possessor of land as aforesaid, to his and their own proper use forever.

[Section II.] And be it further enacted by the authority aforesaid, That such justice of [the] peace shall make publication thereof by a paper affixed on his house, and on some tree near the high-road side, declaring the number, marks and appraisement of all such swine, and by whom taken up, to the end that the owners may have notice thereof; unto whom the said justice of [the] peace shall pay the other moiety or half the value of such swine taken and appraised, he first deducting out of the same two shillings for the appraisers, and two shillings for the justice's clerk, for their trouble therein. But if it so happen that the moiety or half part, as appraised, will not pay the said four shillings, then such takers up shall pay what shall be wanting thereof.

Provided nevertheless, That if no person appear within twelve months after appraisement as aforesaid to claim the moiety or half part of such swine that then the said justice shall pay what money he hath received (the charges as aforesaid first deducted) unto the overseer or overseers of the poor of the township where taken up, for the use of the poor of the said township; and the owners of such swine shall be thereupon debarred from any claim or right to the same; any law, usage or custom to the contrary in anywise notwithstanding.

[Section III.] And be it further enacted by the authority aforesaid, That it shall not be lawful for any swine, hogs, shoats or pigs to go at large in the towns of Philadelphia, Chester or Bristol, whether yoked and ringed or not; but if any such shall be found running at large after the first day of the Twelfth month next ensuing, such swine, hogs, shoats or pigs shall be forfeit, one-half to him or them that shall take up the same, and the other half to the use of the poor of the respective towns, to be paid to the overseer or overseers according[ly] to [sic] the use aforesaid; the said town of Bristol being all the space contained within half a mile square from the mill-creek up the river Delaware.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 27, 1712-13, Chapter 198 (as to goats); May 10, 1729, Chapter 303; April 5, 1779, Chapter 842; March 13, 1780, Chapter 892; March 27, 1784, Chapter 1089; March 7, 1800, Chapter 2120; March 28, 1808, P. L. 163; March 30, 1822, P. L. 108; April 18, 1853, P. L. 531 and 550.

CHAPTER CLIX.

AN ACT FOR COLLECTING THE ARREARS OF TWO THOUSAND POUNDS GRANTED TO THE PROPRIETARY.

Whereas by a certain act made and passed at a general assembly held at Newcastle for this province and counties annexed then in conjunction, in the year of our Lord one thousand

seven hundred and again confirmed at another general assembly held at Philadelphia the following year, there was, for divers good causes in the said act recited, granted to our proprietary and governor-in-chief the sum of two thousand pounds current money of this province, to be raised upon the clear value of all real and personal estates and upon the polls of all freemen within the said province and counties, and to be raised and assessed as in the said act is mentioned, of which said sum fifteen hundred and seventy-three pounds were to be paid by the three counties of this province and the remainder by the territories; and whereas by the remissness of the collectors who were appointed to receive the several rates and assessments then laid for raising the said sum, and through divers other concurring causes, upon the proprietary's last departure a considerable part of these rates remain yet uncollected, not only to the loss and damage of the proprietary to whom the same was granted, but also to the dishonor of the government, for remedy whereof, and to the end that the whole said sum of fifteen hundred and seventy-three pounds be duly and fully raised and paid, and the province thereby discharged of the said incumbent debt:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all the several rates or assessments laid upon all or any of the inhabitants of this province by virtue and in pursuance of the afore-recited act, that have not been already paid, shall be duly raised and paid into the proprietary's receiver by the respective collectors, in the several counties or districts in these counties, who were last intrusted with collecting the same, before the twenty-fifth day of the First month next called March, upon the penalty of ten pounds, to be paid by every collector neglecting his duty herein, and the loss of his office if he be otherwise an officer: And where any collector is deceased or removed out of this province and no other has been substituted in his

place there, the sheriff of the county shall undertake and levy the arrears in such district upon the penalty aforesaid. And where any collector or collectors have received any sum or sums of money or other effects in pursuance of the said act, and have not given a due account thereof, and paid in the same, all and every such sum and sums, being proved by their receipts or accounts before a magistrate, shall be forthwith paid in and made good by them, or shall be accounted the first and principal debts upon their estates or upon their security, and be accordingly recovered. And whereas in some places it may have so happened that the rates laid upon some counties or districts after the collectors have fully done their duty, may not amount to the sum or sums wherewith they were charged, by reason of the non-residence of several persons who were taxed for such lands, and others who are deceased or have since removed:

[Section II.] Be it further enacted by the authority aforesaid, That if in any county or district of a county it shall be found as aforesaid, then the justices of the county, or any three of them, upon a precept from the governor and council shall, upon a full consideration of the case and computation of the arrearages, assess so much more upon the county as they shall find necessary to answer the whole sum laid upon that county; and so for every county respectively; notwithstanding which, the assessment upon such lands or estates as belong to non-residents or such as are deceased, shall be still charged and remain a good debt to the county until it shall be duly paid and answered, and shall be recovered as is, by another act now passed this present assembly, directed, entitled "An act for the more easy and effectual collecting the proprietary's quit rents."¹

[Section III.] And be it further enacted by the authority aforesaid, That where any person or persons shall refuse or neglect to pay their assessments when called upon, the officer or collector appointed shall, according to the direction of the afore-recited act for granting the sum aforesaid, levy it by distress and sale of goods, returning the overplus (if any be) after all charges that have been upon that account are first deducted.

¹ Chapter 139.

And that the intention of the said grant or any part of it may not upon any account hereafter be eluded:

[Section IV.] Be it enacted, That no length or slip of time, nor any accident arising from thence, shall in any case invalidate or weaken the grant aforesaid or the execution of any clause or paragraph thereof, but that the same shall be in force and so continue until such time as the respective sums due from each county shall be fully paid. And the governor and council shall from time to time give directions and appoint officers to complete the said collection, who shall be subject to the same penalties as the other collectors hereinbefore mentioned, and shall give all such full and positive orders to the county courts as shall be found necessary for collecting and paying in the arrears of the respective sums laid by the act aforesaid.

Provided always, That the county courts shall at each ensuing court make an inquiry into the several payments that have been or hereafter shall be made to the proprietary's receiver, and shall receive of him acquittances which, when in full or amounting to the sum respectively assessed upon the county, shall be a full discharge to that county from every or anything contained in this or the above-recited act for granting the sums aforesaid.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. Expired.

CHAPTER CLX.

AN ACT DIRECTING THE QUALIFICATIONS OF, ALL MAGISTRATES AND OFFICERS, AS ALSO THE MANNER OF GIVING EVIDENCE.

Whereas our gracious sovereign the Queen, by her order bearing date the one-and-twentieth day of January in the year one thousand seven hundred and two, did amongst other things declare her royal pleasure to be that all persons in judicial or any other office or offices in this province, before their entering

upon any such office or offices, do take the oath directed by the law of England or the affirmation allowed by the said law to Quakers; and that no judge be allowed to sit upon the bench who shall not first take the oath of a judge, or in lieu thereof the afore-mentioned affirmation as directed by the law of England; as also that all persons who in England are obliged and are willing to take an oath in any public or judicial proceedings be admitted so to do by the proper officers and judges in Pennsylvania, as by the said order may more at large appear: now forasmuch as the major part of the freeholders and inhabitants of this province being such who cannot for conscience' sake take or order oaths to be administered, that in some of the counties, unless an affirmation be allowed instead of an oath where a magistrate cannot for conscience' sake administer an oath, or where a judge or proper officer who scruples not to administer an oath to such as are willing to take the same is not present nor near at hand, there will inevitably be a failure of justice in cases that often may happen within this province; for prevention whereof:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the twentieth day of September in the year one thousand seven hundred and six, all persons to serve in council or assemblies within this province, as also all persons whatsoever who from time to time shall be commissionated by the governor or his lieutenant for the time being to be commissioners, judges or justices of the respective courts within this government; as also all clerks, sheriffs, coroners and all other officers and persons whatsoever within this province, who for conscience' sake cannot take oaths, but will, before they enter upon their respective offices or trusts, subscribe the declarations and professions of faith according to the act of parliament made in the first year of the reign of the late King William the Third, entitled "An act for exempting their majesties' subjects dissenting

from the Church of England from the penalties of certain laws," changing what is to be changed, and make their solemn affirmation and engagements for the due execution of their offices or places, in manner hereafter prescribed by this act, shall be, and are hereby declared and allowed to be effectually qualified to act in their several offices, stations and places, and to exercise all the powers, authorities and jurisdictions belonging to them respectively, as fully and amply as if they had been qualified by oath, and that all and every person and persons who shall be duly appointed, elected or commissionated to any office or place, who (having first subscribed the said declaration and profession of their Christian faith, and taken the said solemn affirmation instead of an oath) shall be allowed to hold and exercise their respective offices and places, as also all other persons taking the said affirmation, shall be qualified and allowed to serve as jurymen or upon inquests, and to give evidences in any matter, cause or thing whatsoever. And all such solemn affirmations or declarations shall be adjudged and taken, and are hereby declared and enacted to be of full force and effect in all cases and to all intents and purposes whatsoever, as if the same had been by oaths. And for the better settling the method or manner of administering the said affirmation:

[Section II.] Be it further enacted, That the magistrate or person who administers the same shall say to the affirmand, viz., Dost thou declare, or thou shalt declare, in the presence of Almighty God, the witness of the truth of what thou sayest; and the affirmand shall answer (yea or yes).

And the respective qualifications to be administered to and taken by the several magistrates and officers hereinafter mentioned are to be in the words of the aforesaid affirmation, together with the following words respectively, viz.,

The judges' and justices' attests, thus:

That as judge or justice according to the governor's commission to thee directed, thou shalt do equal right to the poor and rich to the best of thy knowledge and power, according to law and after the usages and constitutions of this government; thou shalt not be of counsel of any matter or cause depending before thee, but shalt well and truly do thy office in every respect according to the best of thy understanding.

To the master of the rolls, secretaries, clerks and such like officers, thus:

That thou wilt well and faithfully execute thy office according to thy commission, to the best of thy skill and knowledge, taking the fees only that thou ought to receive by the laws of this government.

To the sheriffs and coroners, thus:

Thou wilt well and truly serve the Queen and governor in this office of sheriff (or coroner) and preserve the Queen's or governor's rights as far as thou can or may; thou shalt serve and return all the writs and precepts to thee directed; thou shalt take no bailiff or deputy but such as thou wilt answer for; thou shalt receive no writs except from judges and justices who by the laws of this government are authorized to issue and direct writs unto thee; and thou shalt diligently and justly do and accomplish all things appertaining to thy office after the best of thy wit and power, both for the Queen's and governor's profit, and good of the inhabitants within the said county, taking such fees only as thou ought to take by the laws of this government, and not otherwise.

To the constables, thus:

Thou wilt well and duly according to the best of thy understanding execute the office of a constable for the town or county of _____ for this ensuing year, or until another be attested in thy room or thou shalt be legally discharged thereof.

To the grand inquest; to the foreman, thus:

Thou wilt diligently inquire and true presentment make of such matters and things as shall be given thee in charge or come to thy knowledge touching this present service; the Queen's counsel, thy fellows and thy own thou shalt keep secret, and in all things thou shalt present the truth, the whole truth and nothing but the truth, to the best of thy knowledge.

This being given to the foreman, the rest of the inquest shall be attested by one, two or three at a time, as the court shall see occasion, thus:

The same solemn affirmation thy (or your) foreman hath taken on his part thou (or you) will well and truly perform on thy (or your) parts.

To the traverse jury by one, two or three at a time, thus:

Thou (or you) will well and truly try the issue of traverse between our Lady the Queen and A. B., which you have in charge, according to your evidence.

In civil cases by one, two or three at a time, thus:

Thou (or you) will well and truly try the issue between A. B. plaintiff and C. D. defendant, according to your evidence.

The solicitors or attorneys at law, their attests:

Thou shalt do no falsehood nor deceit nor consent to any to be done in this or any other court within this province; and if thou knowest of any to be done thou shalt give knowledge thereof to the judges or justices respectively, that it may be reformed; thou shalt delay no man for lucre or malice; thou shalt increase no fees, but be contented with such fees which are or shall be allowed by the laws of this province; thou shalt plead no foreign plea nor sue any foreign suits unlawfully to hurt any man, but such as shall stand with the order of the law and thy conscience; thou shalt not wittingly nor willingly sue or procure to be sued any false suit, nor give aid or consent to the same, on pain of being expulsed from the court forever. And further thou shalt use and demean thyself in the office of an attorney within the court according to thy learning and discretion.

And for preventing the failure of justice that may often happen as aforesaid:

[Section III.] Be it further enacted by the authority aforesaid, That when a magistrate or other proper officer is not present who can administer an oath to such who do not scruple to take the same, it shall and may be lawful for the magistrate or officer then present to administer the affirmation in lieu thereof.

Provided nevertheless, That no proper officer or person whatsoever who scruples not the taking or administering an oath pursuant to the Queen's order, is by this act denied to take or administer the same accordingly. And although it is the usual practice of courts, where magistrates make no conscientious scruple of administering an oath, to administer the same by order of the bench, yet inasmuch as in the courts of this province the bench generally consists mostly of Quakers, who for

conscience' sake cannot administer an oath nor require an oath to be administered as aforesaid:

[Section IV.] Be it therefore enacted by the authority aforesaid, That when any oath pursuant to the Queen's said order is administered by such magistrate as aforesaid, although it be done in the presence of the court, yet it shall be and is hereby declared to be (not the act of the bench but) the act of that magistrate only who shall administer or order the same to be administered which nevertheless shall be as valid a qualification as if it had been done in the name and by the command of the court.

[Section V.] And be it further enacted by the authority aforesaid, That from and after the said twentieth day of September, all commissions granted by the governor for the time being to any person or persons to hold courts or any judicial authority in this province, shall be made (with respect to the aforesaid qualifications) conformable to this act, any law, usage or custom to the contrary hereof in anywise notwithstanding. And if any person or persons taking such solemn affirmations or declarations shall be lawfully convicted willfully, falsely and corruptly to have affirmed or declared any matter or thing which, if the same had been upon oath, would have amounted to willful and corrupt perjury, every such person so offending shall incur the same penalties and forfeitures as by the laws and statutes of England are provided against persons convicted of willful and corrupt perjury. And all persons that shall be convicted of willful and corrupt perjury shall suffer in manner aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That any person who being a witness in any matter or cause whatsoever, shall have occasion to go out of this province before trial, or be hindered by extreme sickness to appear personally at the trial of such cause, the deposition or affirmation of such person may be taken in writing before any judge or justice of the peace within this province; and in such case the adverse party or his attorney shall have notice by summons from the magistrate where the said evidence is to be taken. But if the party summoned refuse or neglect to come and be present in person or by attorney, then the deposition or evidence may be

taken without them or in their absence; and such written deposition or affirmation shall be good and sufficient evidence to the court and jury.

Passed January 12, 1705-6. Repealed by the Queen in Council, January 8, 1707-8 and October 24, 1709. See Appendix II, Sections II, III, VIII, IX, &c. See the Act of Assembly passed February 28, 1710-11, Chapter 171.

CHAPTER CLXI.

AN ACT FOR REGULATING ELECTING OF SHERIFFS AND CORONERS.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the freemen and inhabitants of the city and county of Philadelphia, as also of the other counties of this province, at the time and place of meeting for electing their representatives to serve in assembly, shall or may yearly choose a double number of persons to present to the governor for sheriffs and coroners, in manner following: (That is to say) the coroner of every county of this province, or, in his absence, the persons appointed by the electors of the said representatives as judges of their said elections, without any other warrant or precept, as soon as the election of the members of the assembly is ended, shall, by the consent of the said freemen and electors or the greatest part of them, cause a double number of persons to be chosen for sheriff by majority of votes; who shall be returned by indentures between the coroners or some other of the said persons so officiating as judges of the said other elections, and six or more of the electors: which persons so elected for sheriffs shall present themselves to the governor within two days next after such elections; and if the governor will not, on or before the third [day] after such presentment, commissionate one of them so

chosen and presented to him, the first person named in the return shall, by virtue of this act, stand and serve in the office of sheriff for one year next after such election, if he so long behave himself well, without any further or other commission.

But in case the persons elected for sheriff shall refuse to accept of the office, or if, after any sheriff doth accept, he shall be convicted for misbehavior in his office, or shall depart this life before the end of the term for which he is or shall be chosen, then another sufficient person shall be commissionated by the governor from time to time to supply the place of such as shall so refuse, misbehave himself, or be deceased as aforesaid; who shall act and continue in the office of sheriff to the end of the said term of one year from the time he was commisionate, or until another be as aforesaid chosen in his stead.

And that the sheriff of every county of this province, or such other person as shall be concerned to officiate as judges of the said election of representatives, as soon as the elections of the said representatives and sheriffs are ended, shall in manner aforesaid cause a double number of persons to be chosen for coroners, who shall be returned and presented to the governor within two days after such elections; and if the governor will not commissionate one of them so presented, the first named in the return shall by virtue of this act stand and serve in the office of coroner for one year next after such election, if he so long behave himself well, without any further or other commision: but in case the person so elected for coroner shall refuse to accept of the office, or if the coroner accepting shall be convicted of official misbehavior, or be deceased before the end of the term for which he is or shall be chosen, then another sufficient person shall be commissionated by the governor from time to time, to supply those defects in manner aforesaid.

But if the freemen or electors aforesaid shall at any time neglect or decline to choose persons for either or both the said offices, then the persons that are or shall be in the respective offices of sheriff and coroner at the time of the said elections shall remain therein until they shall be respectively removed by another election, to be made in manner aforesaid.

Provided always, That before any sheriff shall receive his

commission, or exercise any part of his said office, he shall by himself or his deputy put in sufficient sureties into the office of the master of the rolls of this province, and there shall enter into bond or obligation, to wit, The sheriff of the city and county of Philadelphia, in the sum of six hundred pounds, current money of Pennsylvania; the sheriff of the county of Bucks, in the sum of two hundred pounds, money aforesaid; and the sheriff of the county of Chester, in the sum of two hundred pounds, of like money; upon condition, That he will well and faithfully perform his duty and trust in the said office of sheriff, according to the tenor of the affirmation which he shall make for the due execution of his office. And that all the bonds so to be given for security as aforesaid shall be taken in the Queen's name, and entered of record in the master of the rolls office aforesaid; but are hereby declared to be only in trust to and for the use of the person or persons concerned; and that when any of the said bonds shall be put in suit, and judgment thereon obtained, the judgment shall remain in the same nature the bonds were; and that no execution shall issue out thereupon before the person or persons grieved shall, by *scire facias* or other process, summon the person or persons against whom the judgment aforesaid is obtained, to appear and show cause why execution should not issue upon the said judgment. And if the plaintiff in the *scire facias* shall prove what damage he hath sustained, and thereupon a verdict be found for him, the justices in such cases shall award execution for so much as the jury shall then find, and no more; and the former judgment is hereby declared still to remain cautionary, for the satisfaction of such other person or persons as shall legally prove themselves damaged, and recover their damages as aforesaid by due course of law.

And moreover no sheriff or coroner whatsoever shall enter upon or exercise any part of their said respective offices until they shall respectively make and subscribe the declarations and profession of their Christian belief, in the act, entitled "An act to ascertain the number of members of assembly, and to regulate the elections,"¹ mentioned and required to be taken

¹ January 12, 1705-6, Chapter 137.

by members of assembly, and the solemn affirmations and declarations for the due execution of their respective offices, in manner and form as sheriffs and coroners, by a law of this province, entitled "An act directing the attests of officers,"¹ are respectively required to take. All which declarations, tests and affirmations shall be made, subscribed and taken before the governor-in-chief, or his deputy for the time being, or in open quarter-sessions, or before any two justices of the peace out of sessions in the respective counties, where there may be occasion to take the same. And the same declarations, tests and affirmations so made and taken out of sessions shall be by the justices delivered into court; and the clerk of such sessions is hereby required to record the same, as also those taken in court, in rolls or books prepared for that purpose.

[Section II.] And be it further enacted by the authority aforesaid, That the sheriff and coroner of the county of Philadelphia shall be sheriff and coroner of the said city; and the sheriff of the city and county of Philadelphia for the time being shall be water-bailiff, and may execute and perform all things belonging to the office of water-bailiff upon Delaware River and all other navigable rivers and creeks within this province; and shall reside in the city of Philadelphia.

Provided also, and it is hereby declared, That no elections shall be made for any sheriff or coroner before the time limited for those who are at present in those offices respectively shall be expired.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed August 24, 1717, Chapter 222; February 14, 1729-30, Chapter 315; March 11, 1752, Chapter 397, and September 26, 1767, Chapter 568. Repealed by the Act of Assembly passed September 13, 1785, Chapter 1175.

¹ 1700 Chapter 33.

CHAPTER CLXII.

AN ACT FOR THE BETTER PROPORTIONING THE RATES OF MONEY IN PAYMENTS MADE UPON CONTRACTS ACCORDING TO THE FORMER REGULATION.

Whereas our gracious sovereign the Queen, taking into consideration the different rates at which the same species of foreign coin pass in her several colonies and plantations in America, and the inconveniences thereof by the indirect practice of drawing the money from one plantation to another to the great prejudice of the trade of the Queen's subjects, did by her royal proclamation given at Windsor, the eighteenth day of June in the third year of her reign, think fit to reduce all foreign coins to one current rate within her dominions in America by certain exact calculations and regulations thereupon in the said proclamation at large set forth and expressed; publishing and declaring that from and after the first day of January then next ensuing, no pieces of money therein mentioned should be accounted, reckoned, taken or paid within any of the Queen's said colonies or plantations, for the discharge of any contracts or bargains made after the said first day of January, at any higher rates than by the said proclamation is ordered and required; and whereas upon the liberty that is left by the said proclamation to pay and discharge all debts contracted before the said first day of January in money at other rates than is thereby required, it has been frequently practiced in this government to make payments in such pieces as upon the reduction of our coin would carry the greatest loss, and too great encouragement has been given by the irregularity and disproportion of the rates at which money has passed, through a sinister and unjust desire of gain, to clip the heavier pieces passing by weight as well as reals or bits that are not weighed, and thereby to make the generality of such payments as aforesaid in the lightest and most depraved money, for remedy whereof:

[Section I.] Be it enacted by John Evans, Esquire, by and with Her Majesty's royal approbation Lieutenant-Governor

under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this present act, no debts contracted before the said first day of January shall be discharged in any silver coin current in this province but at the rate of five pence halfpenny per pennyweight, being the nearest to the former regulation pieces and half-pieces of Peru excepted, which shall pass in such payments at five pence per pennyweight; and Lion or Dog dollars not less than sixteen pennyweight at six shillings each, and all kinds of silver money shall be weighed by Troy weights proportionable to the rate aforesaid.

Provided nevertheless, That without the consent of the receiver in payments of pieces of eight, there shall not be more than one single piece; and in payments of half-reals, reals and double reals, not more than eight reals weighed in the scale at one draught; and such draught shall not be weighed or accounted nearer than one-half pennyweight; and the money being full as heavy as the weight shall be passable for the value thereof respectively. And whereas the neighboring governments that have been more anciently settled, and are some of them much more considerable in trade than those of [sic] this province, have not hitherto fallen into the practice of the regulation enjoined by the Queen's said proclamation, whereupon the inhabitants of this government, finding the alteration difficult to be practiced while none of those around us do the same, have too generally continued to contract and bargain for sums according to the old rates, which still increases the great inconveniences that daily more and more arise from the aforementioned disproportion, by not only clipping our money upon the encouragement taken from thence but also importing the lightest pieces and exporting the heavy; and whereas nothing will more facilitate the practice of the regulation aforesaid, according to the said proclamation which requires all weights to go exactly according to one rate; than first to introduce the same method in all payments whatsoever, by which a full com-

pliance with the said regulation will be rendered much more easy and less disadvantageous:

[Section II.] Be it therefore enacted by the authority aforesaid, That no payments upon any contracts made upon the former currency of money, as by a late law of this province it was established, shall be made after any other rate than the aforesaid of five pence halfpenny for every pennyweight of silver, and so proportionably. And for Peru's and Lion or Dog dollars, as aforesaid; and that all payments that are not according to the said proclamation, unless the contract was for sterling or according to some other particular rate, shall be made according to the regulation hereinbefore established, and not otherwise.

Passed January 12, 1705-6. Repealed by the Queen in Council, October 24, 1709. See Appendix II, Sections II and III, and the Act of Assembly passed April 30, 1709, Chapter 166.

CHAPTER CLXIII.

AN ACT FOR SELLING THE OLD COURT-HOUSE AND BUILDING A NEW COURT-HOUSE AND PRISON IN THE COUNTY OF BUCKS.

Whereas the grand juries of the said county have presented the necessity of building a court-house as aforesaid, and a petition being presented to this House from many of the freeholders, setting forth the necessity thereof and requesting that it may be affixed in the town of Bristol the former place being too remote from most of the inhabitants of the said county and that several of them have voluntarily subscribed for carrying on and encouraging the same: it is therefore humbly requested that it may be enacted:

[Section I.] And be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it

shall and may be lawful for Joseph Growdon, Samuel Dark, Tobias Dymock, Joseph Kirkbride and William Paxson, or any three or more of them, to make public sale of the old court-house and prison with the appurtenances thereunto belonging for the most it will yield, and a deed or conveyance thereof to make under their hands and county seal; which deed or conveyance so made shall be good to the purchaser, his heirs and assigns forever. And the money so raised shall be paid by the said justices towards the building of a new court-house and prison in the town of Bristol aforesaid.

[Section II.] And be it enacted by the authority aforesaid, That a court-house and prison shall be built in the said town of Bristol upon a piece of ground late in the tenure and occupation of Samuel Carpenter, and by him freely and absolutely given, granted and confirmed unto Joseph Growdon, Tobias Dymock, Joseph Kirkbride and Edward Mayes, for the use of the inhabitants of the county of Bucks forever, for the erecting and building a prison and court-house thereon; which said piece of land is one hundred feet square and containeth about thirty-six perches and a half; and is bounded westerly on Cedar street, northerly on Peter Webster's land, and easterly and southerly on other land of the said Samuel Carpenter.

[Section III.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the assessors of the said county to assess and raise so much more money as will complete and finish the same as shall be concluded and agreed upon by the justices and grand jury of the said county in open court.

[Section IV.] And be it further enacted by the authority aforesaid, That for the future, elections of representatives for the said county to serve in assembly, and assessors and all other officers to be elected according to law and charter, shall be made in the said town of Bristol, any law, custom or usage to the contrary notwithstanding.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed February 22, 1717-18, Chapter 229.

CHAPTER CLXIV.

AN ACT FOR RAISING A SUPPLY OF TWO PENCE HALFPENNY PER POUND AND TEN SHILLINGS PER HEAD, ALSO FOR GRANTING AN IMPOST AND LAYING AN EXCISE ON SUNDRY LIQUORS AND NEGROES IMPORTED INTO THIS PROVINCE FOR THE SUPPORT OF GOVERNMENT AND DEFRAYING THE NECESSARY PUBLIC CHARGES IN THE ADMINISTRATION THEREOF.

Whereas King Charles the Second by his royal letters patent was graciously pleased to grant unto our Proprietary and Governor not only the soil of this province of Pennsylvania, but also diverse great privileges and immunities with full powers for the well governing the same, which by the providence of God, the favor and royal justice of our gracious Queen and continued care of our proprietary, is still confirmed to the great satisfaction, safety and interest of the inhabitants in general, the consideration whereof requires all due and grateful returns (from those for whose benefit and behoof government so much is) by a suitable provision to support the same with all its exigencies under the present administration, and as a testimony thereof, and of the people's ready concurrence and hearty goodwill thereunto:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be levied and raised for the uses hereinafter mentioned the several sums, payments and imposts following: (That is to say) there shall be levied and raised upon all estates in this province both real and personal (the estate of the proprietary, his children and lieutenant-governor only excepted) and shall be paid by the owners or possessors thereof, two pence half-penny for every pound clear value of such estates over and besides household goods and implements of use; except such as do not amount to thirty pounds in value. And all freemen

above the age of twenty-one years, who have been out of their apprenticeships six months before the time of assessment, not worth thirty pounds, shall pay ten shillings per head, all which shall be assessed and levied as by this act is directed, to wit, the justices hereinafter named in each respective county: (That is to say) for Philadelphia city and county, Samuel Finney, Rowland Ellis, Samuel Richardson, Edward Shippen and William Carter; for Bucks county, John Swift, Joseph Kirkbride, Tobias Dymock and William Paxson; for Chester county, Jasper Yeates, Caleb Pusey, Philip Roman [Romans] and Jonathan Hayes; or any three of them in each respective county shall, within one month after publication hereof, call or take to their assistance four or more of the assessors of each county: which said justices and assessors shall, by warrant under some of their hands drawn by the clerk, require and cause all and every the constables to return and bring unto them at some certain place and time, to be by the said justices and assessors appointed, exact lists in writing of the names of all persons inhabiting or residing, and accounts of every estate lying and being within their respective districts; by which the justices aforesaid upon the attestation they have taken, and the said assessors upon an attestation which the said justices or some of them shall and are hereby empowered to administer to them for that purpose, shall assess every person and estate as aforesaid within their respective county, according to the clear value of such estates as far as they can by all lawful means inform themselves of the same, at the rates of two pence halfpenny per pound as aforesaid; of which assessments the respective county clerks by order of the justices shall forthwith draw out fair duplicates, which shall be signed by the justices and assessors aforesaid or the majority of them, and be by them delivered to the sheriff of the county or such other person as they shall think fit to appoint; who shall give security to the proprietary, if required, for the just discharge of their trust, and shall then forthwith collect and levy the several rates and assessments aforesaid upon all and every the inhabitants within their respective counties so assessed, in ready money or good merchantable wheat at four shillings per bushel which

unto the payer seems best to be delivered at such convenient time and place as the assessors shall appoint or as the collector and payer shall agree; and upon receipt thereof shall, upon or before the first day of the Third month next, pay the same to Samuel Carpenter at Philadelphia, who is hereby appointed public treasurer for this province; or in case of his death or removal, to such other person as shall be appointed by the assembly for the time being; but if no assembly be sitting, then to such person as the governor and council shall appoint to supply that place until the next meeting of assembly: which treasurers shall give sufficient security for the discharge of their trust, and their receipts shall be a sufficient discharge to the collectors respectively.

[Section II.] And be it further enacted by the authority aforesaid, That in case any person rated or assessed by this act as aforesaid shall refuse or delay to pay their respective sum or sums for which they or their lands or estates were assessed as aforesaid, the collector shall, by virtue of a warrant first had and obtained from one or more justices of the peace of that county, which warrants all justices are hereby empowered and required to grant, forthwith to [*sic*] levy the said sum or value thereof by distress and sale of such persons goods; and if no visible estate can be found to make distress upon, then the person assessed shall be taken in execution, and remain prisoner until he shall answer the same together with such other sums as such person is assessed by virtue of this act in any other county. And each respective warrant issued in pursuance of this act and empowering to make distress, shall extend and be in force against the person assessed, if to be found in any part of this province, as well without the county for which he is assessed as within the same; and upon such distress and sale of goods as aforesaid, the overplus (if any be) shall be returned to the owner (all necessary charges being first deducted).

Provided always, That if upon such rating or assessment made as aforesaid any person shall find him or herself aggrieved or overrated, such person may apply to the assessors on the same day six weeks after they shall begin to lay the assessments. And to the end all persons concerned may know what

their particular assessments amount to, the respective collectors shall, within five weeks after they shall receive such duplicates as aforesaid, acquaint every person assessed in their respective limits or counties what their particular assessments amount to, making demands for the same, as also acquaint them when the assessors according to this act are to meet to hear the complaints of any who may find themselves aggrieved by such assessment. And the said collectors shall fully complete and finish the collecting such assessment in their respective counties as this law appoints and directs; and the said assessors are hereby required to meet accordingly, and strictly examining such persons upon their solemn attestations or upon proof of others, shall have power to diminish or add to such persons rate or assessment as they shall see occasion. And the collectors shall, before payment made by him [sic] to the treasurer, pay to each constable respectively three pence for every pound assessed and collected within his district; and to the justices and assessors, six pence for every pound, to be divided amongst them; and to the clerk of Philadelphia county, forty shillings; and to the clerks of Bucks and Chester, twenty-five shillings each for their whole trouble of making out the duplicates and warrants; and shall reserve to themselves one shilling for every pound by them collected.

[Section III.] And be it further enacted, That in case any justice of the peace, assessor, constable or clerk shall neglect or refuse to do their duty as required by this act they and each of them shall be fined by the governor and council, either upon complaint made or other information and proof, in any sum not exceeding ten pounds for the support of government, to be levied by distress and sale of goods by a warrant from the governor. And in case any sheriff or collector shall neglect to do his duty herein he shall be fined in any sum not exceeding twenty pounds to be recovered for the uses so as aforesaid: and upon neglect, death, removal or other incapacity of any collector or other officer, the governor and council shall from time to time have power to appoint others to succeed in their place till such time as the said rates and assessments are fully levied all which officers so appointed by the governor and council shall be liable to the same penalties as aforesaid.

[Section IV.] And be it further enacted, That in case any person shall be sued for anything done in pursuance of this act such person so sued may plead the general issue and give this act and special matter in evidence, and if the plaintiff be cast the defendant shall recover treble damages.

Provided also, That none shall be punished for neglect in the execution of this act except he or they be prosecuted within a year after such offense committed.

[Section V.] And be it further enacted by the authority aforesaid, That there shall be throughout this province levied, collected and paid for the space of three years next ensuing after the first day of the Twelfth month next called February for the uses hereinafter mentioned, the several duties and imposts herein expressed in manner and form following: (That is to say) for every pipe of wine imported into this province and not directly from the place of growth, except wines from the kingdom of England, there shall be paid by the importer four pounds current money and so proportionably for greater or lesser quantities and for all rum, brandy or other spirits imported, except rum directly from the West India Islands and brandy from England, shall be paid nine pence for every gallon and except such wines as shall be brought in from the counties of Newcastle, Kent and Sussex upon Delaware, or from that division of New Jersey formerly called West Jersey, which were imported thither directly from the place of growth in vessels which are wholly and truly owned by the inhabitants of this government, and except such rum as is imported thither directly from the West India Islands in vessels owned as aforesaid to be proved by the importer of such wines or rum into this province And for every pipe of wine imported from the place of growth directly or by way of the counties of Newcastle, Kent and Sussex or Jersey aforesaid in vessels so owned as aforesaid shall be paid twenty shillings and so proportionably for other quantities except such wines only as shall be brought into this province from the place of growth upon the next return of such vessels so owned as aforesaid which are now actually out upon the said wine voyage: and for every pipe of wine imported from the place of growth directly or by way of the coun-

ties of Newcastle, Kent and Sussex or Jersey aforesaid in vessels that are not owned as aforesaid shall be paid forty shillings and so proportionably for other quantities: and for every barrel of cider imported into this province other than shall be truly the growth of the said lower counties or of West Jersey aforesaid shall be paid five shillings and so proportionably for other quantities. And for every pound of butter and cheese other than what is the produce of the said counties or of West Jersey shall be paid two pence (butter and cheese imported directly from England or Ireland excepted). And for every negro slave or servant imported into this province, other than such as for the space of two years next preceding the publication hereof have resided and been servants in some of the counties or Jersey aforesaid, shall be paid forty shillings per head. And in case any of the said wines, rum, brandy or other spirits, cider, negroes, butter and cheese shall be within six months after the importation again exported out of this province into any other colony or place, the counties of Newcastle, Kent and Sussex and Province of New Jersey aforesaid only excepted, if by good and sufficient evidence, it shall appear that the duties aforesaid respectively due for the same at importation were well and truly paid, then the merchant or exporter shall and may draw back of the said duties one moiety, he first giving sufficient security that the said goods or negroes shall not be again put on shore or expended in any part or place of this province, lower counties or Jersey aforesaid, and that the said goods shall be put on board in order to be exported unless they shall be carried overland to Maryland. All which several duties by this act laid and charged upon all and every the said wines, brandy, rum, spirits, butter, cheese, cider and negroes as aforesaid shall be paid by the merchant or merchants, importer or importers of the same respectively in ready money upon his or their entry or entries made of the things aforesaid and of the landing thereof, or be secured to be paid within one month after at farthest to such officer or officers as shall from time to time be appointed by the governor for receiving and collecting the same, which said officers shall be attested and give good security for the just discharge of their trust herein. And when

such goods and merchandises are entered and paid for or secured as aforesaid the officer shall give a permit gratis under his hand for landing the same at the time such entry is made and duly secured as aforesaid.

Provided always, That after a true gauge of liquors that by this act pay the duties before mentioned ten per cent shall be allowed for leakage.

[Section VI.] And be it further enacted, That if any wine, brandy, rum, cider, butter, cheese, negro or negroes liable by this act to pay any of the duties aforesaid shall at any time hereafter within the term of three years aforesaid be unshipped or put into any house, warehouse or cellar the respective duties hereinbefore mentioned not being paid or secured as aforesaid to the officer appointed and a permit had and obtained for the landing or unloading of the same, all such wine, brandy, rum, and other spirits, cider, butter, cheese, negro or negroes shall be entirely forfeited, one-half to the proprietary and governor for the support of government and the other half to him or them who will seize or sue for the same in any of the county courts of this province.

And for the more effectually putting this act in execution and preventing of frauds:

[Section VII.] Be it further enacted, That all and every officer and officers concerned in collecting the duties hereinbefore mentioned shall have full power and authority by virtue hereof to go on board all vessels, great and small, coming to this province or anchoring at or in any the ports, members or creeks thereof and is hereby empowered if he see cause to call to his assistance the sheriff of the county or his deputy and there search the vessels or examine the masters, sailors or boatmen as he or they shall think fit concerning the lading of such vessels. And in case any vessel arriving at any port, member, creek or landing-place in this province with any of the aforesaid goods on board for which the duties above mentioned or any of them ought to be paid and there remain for the space of twenty-four hours and the master under pretense of going to some other port or under any other pretense whatsoever shall not make an entry of the said goods with the officer aforesaid

within that time, the said master shall give sufficient security to the said officer that he shall not land any of the said goods in this province without a permit first had and obtained from the aforesaid officer for so doing. And a waiter shall be forthwith put on board every such vessel and shall be maintained at the charge of the said vessel. And in case any of the said goods or negroes shall be unloaded or landed from on board the said vessel privately or without a permit as aforesaid, such master shall forfeit his security or if no security be given double the sum that the said duties shall amount to and the afore-mentioned officer and officers shall further have power to enter into and upon opposition or refusal of the persons concerned with the assistance of a constable to break into any warehouse, storehouse, cellar or other place where any of the said goods, negro or negroes may be suspected to be concealed and there seize any of the afore-mentioned goods that he may reasonably suspect not to have paid the duties herein mentioned and that ought to pay the same, unless the owner, renter or possessor of the place where such goods are found or the owner of the said goods shall prove that they are not such goods as are subject to the duties aforesaid or that the duty hath been truly paid or secured to be paid for them. And the said goods so seized shall be secured by the officer until the next county court where the same shall be tried.

[Section VIII.] And be it further enacted by the authority aforesaid, That for all wine, brandy, rum or other spirits under the quantity of five gallons sold and delivered all at one time and to one person there shall be paid for the same six pence for every gallon to the uses herein expressed. And all persons whoshallwithin the term of three years aforesaid sell or dispose of any wine, brandy or other spirits, mixed or unmixed under the quantity of five gallons delivered as aforesaid shall first give sufficient security that they will render a true and just account of all such liquors as aforesaid on the first day of the Twelfth month called February next which they shall have in their possession or that shall in anywise belong to them or that for the space of three years next ensuing after the said day they shall purchase or procure to themselves or by any means di-

rectly or indirectly own or have in their possession and that they will further render a just and true account of what quantities, parts or portions of such wine, rum, brandy and other spirits aforesaid as they shall sell or dispose of by the quantity of five gallons or upwards to any one person delivered at one time: which accounts shall be rendered to the officer herein-after mentioned to be appointed for that purpose once in every three, six or twelve months as the said officer shall see cause, upon the attestation of the person concerned if required, which the said officer is hereby empowered to require upon examining and stating the said accounts. And for every gallon of such wine, rum, brandy or other spirits, deducting and allowing to the seller twenty per cent for every hundred for leakage and wastage, as such person has owned or possessed more than shall appear to have been sold by the quantity of five gallons or upwards at once or shall at the time or accounting remain unsold shall be paid the rate of six pence as aforesaid.

Provided always, That a further allowance shall be made upon the starting or bursting of any cask so that the liquor contained be lost thereby.

[Section IX.] And be it further enacted by the authority aforesaid, That no person whatsoever in this province shall utter or sell any wine under the quantity of a gallon to be delivered at one time and to one person, nor any rum, brandy or other spirits to be drunk in or about the seller's house, garden or other place belonging to him, but such as have a license for the same under the governor's hand and seal of the province upon the pain of forfeiting for the first and every other offense after conviction forty shillings; and for the next offense after conviction four pounds and for the third and every offense after ten pounds, one half to the proprietor and governor for the support of government and the other half to him or them that shall discover or sue for the same, the penalty for the first and every offense not exceeding forty shillings to be recovered by distress and sale of the offender's goods by warrant under the hand and seal of one or more of the justices in the respective counties who are hereby empowered and required to issue their warrants upon proof made by one or more credible witnesses, and every pen-

alty exceeding forty shillings to be recovered in any court of record within this province by bill, plaint or otherwise, wherein no essoin, protection or wager of law shall be granted. And any person who shall sell any wine, rum, brandy or other spirits under the quantity of five gallons at one time and to one person and shall not give security as aforesaid and obtain a permit from the governor's officer for so doing shall forfeit for every offense forty shillings to the use aforesaid to be recovered by warrant from any justice of the peace as aforesaid.

[Section X.] And be it further enacted, That it shall and may be lawful for the governor to appoint so many officers as he shall with the advice of the treasurer see needful to collect and receive the several sums hereby to be raised by excise upon the liquors aforesaid, which officers shall be attested and give good security for the just discharges of their trust herein. And the said officer or officers are hereby empowered and required to examine any person whatsoever in any matter or thing relating to the premises as often as to him may seem necessary and to search any cellar, room, house or place suspected and gauge or note the quantity of liquors contained in any cask. And in case of resistance shall and may command any constable to his assistance and thereby or in his presence to break open locks and doors.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every the officers hereinbefore mentioned to be appointed for the several services and trust as well for the collecting the duty or impost intended to be levied and raised by this act as also the excises meant to be raised on liquors retailed as aforesaid shall pay in the several sums by them received and collected and render just and true accounts from time to time as he shall require unto the public treasurer for this province before named at Philadelphia. And the said treasurer or his successor for the time being, his receipts only shall be sufficient discharges for the said officers respectively, for which the said officers and collectors shall have one shilling per pound for all sums of money received on account of the impost and two shillings per pound for the excise; and the treasurer in this as in the case of poundage and head-money twelve pence per pound.

[Section XII.] And be it further enacted by the authority aforesaid, That all and every the sums of money and sum total of the whole value raised or intended to be raised by this act either by assessments for raising the tax of poundage or poll-money, imposts on sundry commodities for three years herein enumerated, or excise on liquors retailed within the time as aforesaid, shall be and are by this act assigned and appropriated to the support of government and defraying the necessary public charges and exigencies thereof in such proportion as is hereinafter expressed and set down, which sums shall be paid by the public treasurer aforesaid in manner following: (That is to say) eight hundred pounds current money out of the first collections remitted to his hands of the tax of poundage and poll-money aforesaid shall be allowed unto the proprietary and governor William Penn, and be paid to the lieutenant-governor for the support of government and the administration thereof. And without any further order or directions from the Assembly for the time being shall by virtue of this act to the uses aforesaid pay one moiety or half of the whole and every several sums of money by him received from the respective officers appointed to collect and gather the imposts and excises before mentioned, from time to time, as the same shall come to his hands and the other moiety or half of the impost and excise money by him received within the whole term of three years as aforesaid as also the remainder of the money by him received on account of the tax of poundage and poll-money shall remain in his hands and be paid for discharge of the public debts that are or shall be incumbent on this province at the rising of this present session of assembly, and such other debts as shall be contracted for the immediate service of the House of Representatives while sitting, as the payment of their own officers, which debts shall be first allowed by vote of the said House for the time being and be paid by the said treasurer upon a warrant for the same under the Speaker's hand directed to him which shall be his sufficient discharge, as also for such other public uses as the governor and assembly shall hereafter think fit to order and appoint, or such uses as are by them already appointed.

[Section XIII.] And be it further enacted by the authority aforesaid, That for every license granted by the governor to any public housekeeper to sell wine and beer within the city limits of Philadelphia, he shall receive forty shillings and no more, and for every license granted to keep public house (to the intent aforesaid) in any other part of this province but twenty shillings. And the secretary shall have for drawing the said license and bond ten shillings and no more. And the governor's officer in each county appointed to grant permits and take security for private persons retailing strong liquors without doors shall for every permit and bond receive six shillings and no more.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Sections II, III and IX. Expired. See Chapters 172, 179, 180 and 181 passed February 28, 1710-11.

CHAPTER CLXV.

AN ACT TO ASSURE, GRANT AND CONVEY UNTO RALPH FISHBOURN OF CHESTER, IN THE COUNTY OF CHESTER, GENTLEMAN, ONE MES- SUAGE, COTTAGE, HOUSE OR TENEMENT AND LOT OF LAND THERE- UNTO BELONGING, SITUATE IN CHESTER IN THE COUNTY OF CHES- TER AFORESAID COMMONLY KNOWN BY THE NAME OF THE OLD COURT-HOUSE, TO HOLD TO THE SAID RALPH FISHBOURN, HIS HEIRS AND ASSIGNS FOREVER.

Whereas by an act of general assembly of the province of Pennsylvania and territories held at Philadelphia in the said province the tenth day of May in the ninth year of the reign of King William the Third of England, etc., and in the year of our Lord one thousand six hundred and ninety-seven, first reciting, that whereas the inhabitants of the county of Chester having built a new court-house the justices with the consent and approbation of the grand jury did sell their old court-house unto John Simcock for the discharging of a certain debt due to him from the said county and in order to give him an assurance for the same it was enacted that the said justices then in commis- sion for the said county of Chester or any three of them should

be enabled and were thereby enabled and empowered by their deed or deeds under their hands and seal of the said county to convey and assure the said old court-house and land unto the said John Simcock, his heirs and assigns forever. And whereas the said John Simcock before such assurance or conveyance as aforesaid made and executed, departed this life, leaving his last will and testament in writing bearing date on or about the five-and-twentieth day of the Fifth month, called July, in the year one thousand seven hundred and two, and amongst divers other legacies and bequests in the same last will and testament mentioned he the said John Simcock did by his said last will and testament give and bequeath unto his son-in-law Ralph Fishbourn the aforesaid land and premises. Now to the end and intent that the said act of general assembly and also the aforesaid last will and testament of the said John Simcock may have so far as unto this matter relateth their full force according to the true intent and meaning thereof and that the said Ralph Fishbourn may be settled and fully and absolutely seized in his demesne as of fee of and in the said lot of land and premises with the appurtenances unto him the said Ralph Fishbourn, his heirs and assigns forever:

[Section I.] May it please the Governor that it may be enacted, and be it enacted by John Evans, Esquire, with the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said Ralph Fishbourn upon publication of this act without any further or other conveyance or assurance whatsoever shall be seized and is hereby declared to stand and be fully and absolutely seized in his demense as of fee of and in the lot of land, messuage, cottage, house or tenement called the old court-house, situate, lying and being in Chester in the county of Chester in the province of Pennsylvania, with all and singular other the premises with their and every of their appurtenances unto the same premises or any and every part or parcel thereof belonging or in anywise appertaining, to have and to hold the same lot

of land and premises unto the said Ralph Fishbourn, his heirs and assigns forever, to and for the only proper use and behoof of him the said Ralph Fishbourn, his heirs and assigns forever; any law, statute, custom or usage already had or made or hereafter to be had or made to the contrary thereof in anywise notwithstanding: yielding and paying therefor all such sums of money or rents as now are or hereafter shall or may be due and owing unto the chief lord or lords of the fee or fees having right to receive the same at such time or times as now are or hereafter shall be by them or their agents appointed for receiving the same.

Passed January 12, 1705-6. Apparently never submitted to the consideration of the Crown. See the Act of Assembly passed May 9, 1724, Chapter 278.

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1708, and continued by adjournments until the first day of October, 1709, the following acts were passed:

CHAPTER CLXVI.

AN ACT FOR ASCERTAINING THE RATES OF MONEY FOR PAYMENT OF DEBTS AND PREVENTING EXACTIONS ON CONTRACTS AND BARGAINS MADE BEFORE THE FIRST DAY OF MAY, IN THIS PRESENT YEAR ONE THOUSAND SEVEN HUNDRED AND NINE.

Whereas for the better enforcing of our gracious sovereign the Queen's royal proclamation, dated the eighteenth day of June, one thousand seven hundred and four, for reducing foreign coins to the same current rate within all her colonies or plantations in these parts, by a statute made in the sixth year of her reign, entitled "An act for ascertaining the rates of foreign coins in Her Majesty's Plantations in America," all persons within the said colonies or plantations are forbidden, after the first day of May in the year of our Lord one thousand seven hundred and nine, for the discharge of any contracts to be thereafter made, to account, receive, take or pay any of the several species of foreign silver coins mentioned in the said proclamation, at any greater or higher rates than are therein allowed and settled; according to which rates, pieces of eight of Seville, Pillar and Mexico of full weight, which, according to the present currency of money in this province, pass at eight shillings each, shall then be taken and accounted for the discharge of the aforesaid contracts at six shillings and no more; whereupon it is manifest that the same pieces will fall one-fourth part in their denomination, notwithstanding in themselves they retain the same intrinsic value.

And whereas it is most evident that the general known standard of the value of all goods and merchandises to be bought and sold is, in most civilized nations, the quantity of silver that is to be paid for them, which value cannot really in

itself be raised or diminished by the difference of names affixed to it, so that the same piece of eight of full weight when called six shillings only is of no less value in itself than it is when called eight shillings, but ought to purchase the same quantity of goods, at the same time by whatsoever name it may be taken; and therefore all goods and merchandises ought to fall in price or denomination of value, in proportion to the alteration in the denomination of money, because every person who sells goods at one-fourth part lower in the name or denomination of the price, after the said first day of May, will have in reality the same intrinsic value and weight of silver for his goods, as he would have in case he had sold the same for one-fourth part more in money, at the present currency.

Now forasmuch as divers persons in this province without due consideration of the real difference of money, may propose to make advantage to themselves, by means of the said act in forcing their debtors, after the said first day of May, to discharge their debts heretofore contracted according to the rates in the said proclamation mentioned, by which they would receive one-third part more in the quantity of silver than, at the time of the contract, was understood or intended. And some persons since they had notice of the said act, have lent money at the rates now current, but have taken obligations for payment thereof at the rates prescribed by the said proclamation, which is suffered to be exacted either upon those obligations or any other contracts or bargains that ought to be discharged according to the present currency will prove injurious and oppressive to the debtors.

Therefore for prevention thereof:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, Proprietor and Governor-in-Chief of this Province of Pennsylvania, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by [the] authority of the same, That if any person within this province, from and after the said first day of May, for the payment of money lent or goods sold, or for the discharge of any penalties or duties accrued or fees, salaries or

other perquisites settled by law and then due, or any contracts or bargains made in this province, before the said first day of May, shall account, take or receive any of the several species of foreign silver coins mentioned in the said proclamation except Peru's at any other rate than at nine shillings and one penny by the ounce Troy-weight, either by the single ounce or in greater quantities, and for any sum under a piece of eight at five pence halfpenny each pennyweight, and the said Peru's at the rates they now pass; every person so accounting, taking or receiving the same contrary to the directions of this act shall forfeit the sum of ten pounds for every such offense, to the party grieved or to such other person or persons as shall sue for the same, to be recovered with full costs of suit by action of debt, bill, plaint or information in any court of record within this province, where such offense shall be committed; and the debtor shall be discharged of what the creditor shall require or endeavor to exact, over and above the rates hereby prescribed for payment of the said former contracts or bargains. And that all officers' fees, salaries and other perquisites, workmen's and laborers' wages and prices of commodities or manufactures, that have for any number of years passed been fixed and generally known, shall after the said first day of May abate in proportion to the afore-mentioned fall in the denomination of money, for which said fees, salaries and other perquisites, wages, commodities and manufactures, no person shall presume to demand, take or receive in the rates of money established by the said proclamations any more than three-fourths part of the sum in pounds, shillings and pence which he or she has been heretofore accustomed to demand, take and receive in the present currency of money. And that the prices of all goods, commodities, wares and merchandise whatsoever shall be computed at three-fourths part of the sum and no more, which the seller would have taken for them according to the rates of the present currency, if no change had been made therein by virtue of the said proclamation and act of parliament.

Provided always, That nothing herein contained shall extend or be construed to compel every person to receive money according to the present currency, for the discharge of any rents

reserved or contracts or bargains made upon sales of lands or goods, for which money or other effects are really and truly agreed to be paid or delivered, after the said act of parliament takes effect, at the rates thereby directed, or in sterling money of Great Britain.

[Section II.] And be it further enacted by the authority aforesaid, That for rendering payments according to the rates enjoined by the said proclamation more easy and expeditious, there shall be sets of weights of all sorts necessary, exactly proportioned, according to the said rates, from one halfpenny worth of silver to any sum that shall be thought fit, which weights shall be prepared and sold by Peter Stretch and George Plumly of Philadelphia, who shall stamp their respective marks thereon and be accountable for their exactness; and for seven such weights, between one halfpenny in value and six pence inclusive, they shall receive two pence for each weight; and for seven convenient weights between eight pence and twenty shillings inclusive, they shall receive four shillings and one penny, or five shillings and three pence for all the said fourteen weights and no more.

Passed April 30, 1709. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II.

CHAPTER CLXVII.

[AN] ACT FOR THE BETTER ENABLING OF DIVERS INHABITANTS OF THE PROVINCE OF PENNSYLVANIA [TO HOLD] AND ENJOY LANDS, TENE[MENTS AND PLAN]TATIONS IN THE SAME PROVINCE.

Whereas by the royal charter to the proprietary, for this province, license is granted to all such as are not specially forbidden to transport themse[ves and f]amilies unto the said province, in such shipping as, by the laws of [England], they ought to use, and [fitting provision,] paying only the customs therefore due; and [here to settle themselves,] dwell and inhabit, and plant for the public and their own private advantage. And by the same charter, the said [proprietary] has full and [ab-

solute] power to alien, grant or enfeoff such parts and parcels of this country as he should think fit, to him or them that should be willing to purchase the same, to hold in fee-simple or otherwise with license, authority and power to take the premises so purchased of the said proprietary, and hold the same to themselves, their heirs and assigns, in what estate of inheritance soever, as to him the said proprietary should seem expedient, as by the said royal charter more fully appears.

And whereas divers of the protestant or reformed religion, who were inhabitants of high and low Germany, about five-and-twenty years ago (out of a desire to come under the power and protection of the Crown of England, and partake of the advantages proposed for the encouragement of the adventurers to settle this new colony) embraced the invitations they had from the said proprietary, to transport themselves and estates here; and since they came, did contribute the utmost of their power to enlarge this part of the English empire, and always behaved themselves as dutiful and peaceable subjects, and several of them have made and subscribed the declarations and test by law appointed instead of the oaths of supremacy; and the rest are ready and willing to do it when they are required or admitted so to do.

Now, forasmuch as the value of lands in this province being generally but the effect of the people's labor, their plantations are deemed, by our laws but as chattels to pay debts, and strangers have been rendered capable to hold what they purchased as fully and freely as if they had been natural-born subjects of this province; but since the repeal of the late laws, (made after the example of other governments) for encouragement of the peopling and settling of this colony, some doubts and questions have arisen, whether the said Germans are capable to hold what they purchased as aforesaid: for removing of which doubts:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, Proprietor and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and

by the authority of the same, That Francis Daniel Pastorius, John Jawert, Caspar Hoodt, Dennis Kunders and his three sons Cunrad Cunrads, Matthias Cunrads and John Cunrads, Dirk Keyser and his son Peter Keyser, John Lucken, William Strepers, Abraham [Tunes], Lenart Arrets, Reinier Tysen, John Lenson, Isaac Dilbeek and his son Jacobus Dilbeek, John Doeden, Cornelius Siorts, Henry Sellen, Walter Simens, Dirk Jansen, junior Richard Van der Werf and his son, John Roeloffs Van der Werf, John Streepers, senior, Peter Shoemaker, Jacob Shoemaker, George Shoemaker, Isaac Shoemaker, Matthi[a]s Van Bebber, Cornelius Van der Gaegh, Peter Clever, George Gottshick, Paul Engell and his son Jacob Engell, Hans Neus, Reinier VanderSluys and his son Adrian Van der Sluys, Jacob Gaetschalck Van der Heggen and his son Gaetschalck Van der Heggen, Caspar Kleinhoof, Henry Bucholtz, Hermann Tuynen, Paul Klinupges and his son John Klinupges, John Neus and his sons Matthias Neus and Cornelius Neus, Claus Rittenhuysen, Caspar Stalls, Henry Tubben, William Hendricks, and his sons Hendrick Hendricks and Lawrence Hendricks, Henry Kessleberry, Johannes Rebenstock, Peter Verbyn, John Henry Kirsten, John Radwitzer, John Conrads, senior, John Gorgaes, Senwes Bartells and his son Henry Bartells, John Krey and his son William Krey, Conrad Jansen, Claus Jansen and his son John Jansen, William Jansen, Evert Imhoff and his sons Gerhard Imhoff, Herman Imhoff, and Peter Imhoff, Peter Jansen, John Smith, Thomas Eckleswich, Johannes Scholl, Peter Scholl, Gabriel Schuler, William Putts and Matthi[a]s Tysen, all of the county of Philadelphia; and Johannes Bleikers, of the county of Bucks, in the said province of Pennsylvania; and every of them, who shall, within six months after the first day of September, one thousand seven hundred and nine, at some court of quarter-sessions of the peace for the said county of Philadelphia, between the hours of nine and twelve in the forenoon, make and subscribe the declarations and profession of faith, allowed to those that cannot swear, instead of the oaths of supremacy and allegiance; or shall otherwise qualify themselves as the court shall require and the law directs in such cases, the taking of which qualifications, and the making and

subscribing of the said declarations and profession, shall be entered on record in the same court; for the doing whereof one shilling shall be paid the clerk, and no more: all and every such persons shall be enabled, and are, and every of them is hereby enabled and adjudged able and capable to all intents, constructions and purposes whatsoever, as well to demand, ask, have, hold and enjoy any lands, tenements, plantations, rents and hereditaments, in this province, to which they or any of them may or might in anywise be entitled, as if they were free and natural-born subjects and people of this province: as also, that they and every of them shall and may be enabled to maintain, prosecute, avow, justify and defend all and all manner of actions, suits, pleas, plaints and other demands whatsoever, in the said province, as freely and fully, lawfully and securely as if they and every of them had been natural-born subjects and people of the same, or as [any other person] or persons born within this province may lawfully do; any law or usage [to the] contrary notwithstanding.

Passed September 29, 1709. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II. Private act.

At a General Assembly begun and holden at Philadelphia the fourteenth day of October, A. D. 1710, and continued by adjournments until the twenty-eighth day of February, 1710-1711, the following acts were passed:

CHAPTER CLXVIII.

AN ACT FOR ESTABLISHING COURTS OF JUDICATURE IN THIS PROVINCE.

For the more orderly establishment and regulation of the courts of justice within this province:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, true and absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said province in General Assembly met, and by the authority of the same, That there shall be holden and kept a court of record, twice in every year, in every county of this province, in the months commonly called, as followeth: (That is to say) at Philadelphia for the city and county of Philadelphia, the tenth day of April, and twenty-fourth day of September; at Bristol for the county of Bucks, the fourteenth day of April and twenty-eighth day of September; and at Chester, for the county of Chester, on the eighteenth day of April and the second day of October: which said court shall be called and styled the Supreme Court of Pennsylvania. And there shall be four persons of known integrity and ability appointed and commissionated by the governor or his lieutenant, from time to time, by several distinct patents or commissions under the great seal of this province, to be judges of the said court, one of whom shall be distinguished in his commission by the name of Chief-justice; and every of the said judges shall have full power and authority, by virtue of this act, when and as often as there may be occasion, to issue forth writs of *habeas corpus, certiorari*, writs of error, prohibitions, injunctions,

audita querela, mandamus, and all remedial and other writs and precepts (excepting the original writs and process, which by this act are to be granted by the respective justices or magistrates hereinafter mentioned or intended) and that the said judges or any two of them shall have full power to hold the said supreme courts, and therein to hear and determine all pleas, plaints, and causes which shall be removed or brought there from the other courts, according to the direction of this act; and to examine and correct all and all manner of errors of the justices and magistrates of this province, in their judgments, process and proceedings in the respective courts hereinafter mentioned, as well in all pleas of the Crown as in all pleas real, personal and mixed; and thereupon to reverse or affirm the said judgments, as the law doth or shall direct; and also to examine, correct and punish the contempts, omissions, neglects, favors, corruptions and defaults of all justices of the peace, sheriffs, coroners, clerks and other officers within the said respective counties. And if any person or persons be unjustly disfranchised in any town corporate the said judges in any of the said supreme courts shall give relief to such persons, and shall grant writs of *mandamus* and restitution, as occasion may require; and shall award writs of *certiorari*, and all other writs and process usually granted by the Court of Queen's Bench in Great Britain, upon and after removal of causes there, from other courts; and shall also award process for levying, as well of such fines, forfeitures and amercements, as shall be estreated into the said supreme courts, as of the fines, forfeitures and amercements which shall be lost, taxed and set there, and not paid to the uses they shall be appropriated. And generally shall administer common justice to all persons, and exercise the jurisdictions and powers hereby granted concerning all and singular the premises, according to the laws and usages of this province.

[Section II.] And be it further enacted by the authority aforesaid, That there shall be a fit person nominated by the judges of the said supreme courts, for the time being, and commissioned by the governor, to be the prothonotary or clerk of the same courts, who shall keep and duly attend his office at some

convenient place in the city of Philadelphia, and prepare all the said writs and precepts so as aforesaid grantable by the judges, which said writs and precepts may be granted and directed into any county of this province, as occasion may require. And all the said writs shall be made in the name and style of the Queen, her heirs and successors, and bear *teste* in the name of the said chief-justice for the time being; but if he be plaintiff or defendant, then in the name of one of the other justices; and that the said justices shall cause the provincial seal to be put to all the said writs, so as aforesaid grantable by them, and also to the exemplifications of all records and process in every of the said supreme courts. And that all writs of error, *habeas corpus*, *certiorari* and *audita querela*, shall be so as aforesaid granted of course in the vacation, as well as in the court time; and that the same, and all other writs, so as aforesaid to be granted by the judges (save only such of the said writs or other precepts which any one of the said judges may by law cause the return thereof to be immediately) may be awarded into any county of this province but shall be made returnable to the supreme court of the proper county, next ensuing the date of such writs.

Provided always, That in court time no *certiorari* or other writ at the prosecution of any party indicted for any offense cognizable in the inferior courts of this province, shall be granted by the said judges, to remove any indictment or presentment from any of the said inferior courts, before trial had there, unless such *certiorari*, or other writ shall be granted or awarded upon the motion of an attorney, and by rule of court made for granting thereof before the judge or judges of the said supreme court, sitting in open court; and that all the parties indicted prosecuting such writ, before allowance thereof, shall find two sufficient manucaptors who shall enter into a recognizance before one or more of the magistrates or justices of the peace of the county or place, in the sum of twenty pounds, with condition, at the return of such writs to appear and plead to the said indictment or presentment in the said supreme court, and at his and their own costs and charges to cause and procure the issue that shall be joined upon the said

indictment or presentment or any plea relating thereto, to be tried at the next supreme court to be held for the county or place wherein the said indictment or presentment was found, next after such writ shall be returnable; and that the party or parties prosecuting such writ or writs shall appear from day to day, in the said supreme court, and not depart until he or they shall be discharged by the same court. And that the said recognizance and recognizances taken as aforesaid, shall be certified into the said supreme court, with the said *certiorari* and indictment, to be there filed, and the name of the prosecutor (if he be the party grieved or injured) or some public officer to be indorsed on the back of the said indictment; and if the person prosecuting such writ, being the defendant, shall not before allowance thereof by one of the justices of the court, to whom the same writ shall be directed, procure such manucaptors to be bound in a recognizance as aforesaid, the magistrates or justices of the said inferior courts may and shall proceed to trial of the said indictments in the said courts, notwithstanding such *certiorari* or other writ so awarded; and if the defendant prosecuting such writ be convicted in the supreme court of the offense for which he was indicted, that then the said supreme court shall give reasonable costs to the prosecutor, to be taxed according to the course of the said court; and that the prosecutor shall for recovery of such costs, within ten days after demand made of the defendant, and refusal of payment, on oath or affirmation, have an attachment granted against the defendant by the said court, for such his contempt: and that the said recognizance shall not be discharged till the costs so taxed shall be paid.

Provided always, That in any of the vacations, writs of *certiorari* may be granted by any of the justices of the said supreme courts, whose names shall be indorsed on the said writ, and also the name of such person at whose instance the same is granted. And that the party or parties indicted, prosecuting such *certiorari* shall, before the allowance of such writ or writs of *certiorari*, find such sureties, in such sum and with such conditions as are before mentioned.

Provided also, That no writ or writs of *habeas corpus*, *ceteriorari*, or any other writ or writs whatsoever to be sued forth to remove out of any of the courts of common pleas herein-after mentioned, any of the pleas, plaints or actions there depending, for any matter, cause or thing whatsoever, properly cognizable there, and whereof the court where the same pleas, plaints or actions are, or shall be so depending, shall have jurisdiction or power to hold plea, shall be received or allowed by any of the justices of the said courts, to whom the said writs shall be directed and delivered, but that he and they shall and may proceed in the said cause or causes, as if no such writ or writs were sued forth or delivered to him or them, unless that the said writ or writs be delivered to the justice or justices of the said court, before issue or demurrer joined in the said cause or causes, so depending in such court, having power to hold such plea; and unless such writ shall be under the seal of the said supreme court, and signed by one of the judges, as also by the prothonotary of the same court; and unless the party or parties suing forth such writ, shall, before the allowance thereof, pay down the lawful fees or charges of the inferior court then accrued; and when the said charges are paid, one of the justices of the court to whom such writ is directed, shall allow the same writ and make return thereof, and certify the causes, according to the command of such writ; whereupon the defendant or party that sues forth such writs, shall put in special bail before one of the judges of the supreme court where the writ is returnable, such as the said judge, when he sees what the causes are, and hears the objections of the plaintiff or his attorney against such bail, shall approve of. But before any such bail be taken, the defendant shall upon or within four days next after allowance of the writ as aforesaid, give to the plaintiff, or his attorney, notice in writing of the names and additions of the bail, the time when, and the judge before whom the same is intended to be put in; but if neither the plaintiff nor his attorney can be found, then notice of the premises shall be left with the clerk of the inferior court by the party that tenders the bail or his attorney, and affidavits upon oath or affirmation made thereof, otherwise the bail shall not be taken,

but a *procedendo* shall be granted by any of the judges, if it be desired, before bail accepted or taken. And if the plaintiff or his attorney, after such notice will not attend to take exceptions to the bail at the time of the taking thereof, nor within twenty days after, then the bail may be taken *de bene esse*, and upon an affidavit made of the said notice as aforesaid, the same bail shall be forthwith filed in the office of the prothonotary of the said supreme court, by the attorney that sues out the writ: but if it be not filed within four days next after the expiration of the said twenty days, a *procedendo* shall be granted, upon certificate thereof from the said prothonotary, that it is not filed; and if the defendant be in prison or under bail, in the inferior court, neither he nor his bail shall be discharged by reason of any of the said removals, until the bail is so as aforesaid, approved of and filed in the supreme court. And if any such plea, plaint or action shall be remanded by *procedendo* or otherwise, the same shall never afterwards be removed or stayed before judgment.

And if [in] any action, bill, plaint, suit or cause, not concerning freehold or inheritance or title of land, lease or rent, which shall be brought, commenced or depending in any of the said courts of common pleas, it shall appear to be laid in the declaration that the debt, damages or things demanded doth or shall not amount to or exceed the sum of ten pounds, that then such action, suit or cause shall not be stayed nor removed into any of the said supreme or other courts by any writ or writs whatsoever, other than writs of error or attaint.

Provided also, That when any writ of *habeas corpus* directed to any sheriff shall be made returnable immediately, he shall make his return the same day that such writ is delivered, and shall bring the body immediately without permitting the prisoner to wander abroad by color or pretense thereof.

[Section III.] And be it further enacted by the authority aforesaid, That there shall be a court of equity held by the judges of the said respective supreme courts, in every county of this province, which said judges or any two of them, within the limits of their commissions and authorities to them appointed by this act, shall have full power and are hereby empowered and au-

thorized to hear and decree all such matters and causes, as by appeals from the respective inferior courts shall come before them as aforesaid, and thereupon to revoke, make void, alter or confirm such decrees or sentences, acts or proceedings of the said respective courts relating thereto, and to make such decrees, and take such orders therein as shall be agreeable to equity and justice.

And that it shall and may be lawful to and for the judges who make any decrees by virtue of this act, to compel and order the execution thereof by imprisonment of bodies or sequestration of any of the lands of such, who upon sight or due notice of such decree, or upon service of the judges' decretal, order or judicial process, duly proved before one or more of the judges, shall refuse or neglect to comply with or perform the same.

Provided always, That nothing herein contained shall oblige the judges of the said supreme court, nor any of them to go their circuit to the said counties of Bucks or Chester, but when there shall be some cause removed from the respective inferior courts, or some writ or writs of error, appeals or other matter or cause cognizable by them, which shall require their coming, whereof the prothonotary or clerk of the said supreme court, shall give them notice, with all expedition after any such removal, appeal or writs of error shall come to his knowledge. And that the said judges, upon such notice given them, shall cause the sheriff of each of the said two counties respectively, forthwith to warn the justices, coroners and constables to yield their attendance, according to the directions of this act.

[Section IV.] And be it further enacted by the authority aforesaid, That days shall be given in all pleas, plaints, process and adjournments from day to day and court to court by the discretion of the said judges, within the limits of their authorities; and if need be, the said judges, for the more speedy ministration of justice may give days before any one of them, in vacation times, for returning of *habeas corpus*, *certiorari*, or other writs, as also for assigning of errors, filing of pleas, and for performing such other things, as shall be necessary to expedite the hearing and determination of all matters and causes depending before them, from time to time.

Provided always, That no judgment, sentence or decree of the said supreme courts shall be so final but that the party grieved therewith may appeal to the Queen, so that such appellant does deposit the sum or sums recovered or decreed against him, or become bound with one or more sufficient sureties to the party for whom such judgment or sentence is given, by recognizance, in double the sum adjudged to be recovered by the sentence, decree or judgment of the said supreme courts; with condition, that the person or persons appealing, shall and will within eighteen months next after prosecute his or their appeal in Great Britain, with effect; and if the judgment or decree be affirmed there, or that the appellant fails in the prosecution of his said appeal within the time aforesaid, then the said appellant, or party in whose name the appeal is made, shall pay all the debts, damages and costs adjudged upon the former judgment, sentence or decree, and all such costs and damages as shall be awarded for delaying execution, or they the sureties shall do the same for him, whereto the judges before whom the recognizance is given, shall subscribe their hands, and then execution shall stay, and the appellant, if taken in execution shall be discharged.

[Section V.] And be it further enacted by the authority aforesaid, That there shall be a court styled "the general quarter-sessions of the peace and goal delivery," holden and kept four times in every year, in each county of this province, on the days of the weeks and months commonly called as followeth: (That is to say) at Philadelphia, for the county of Philadelphia, on the first Monday in March, June, September and December; at Bristol for the county of Bucks, on the second Tuesday in every of the same months; and at Chester, for the county of Chester, on the last Tuesday in May, August, November and February. And that there shall be a competent number of justices in every of the said counties nominated, appointed and authorized by the governor or lieutenant-governor, for the time being, by commission under the broad seal of this province, which said justices, or any three of them, according to the tenor and direction of their commission shall and may hold the said general sessions of the peace and goal delivery.

And each of them shall keep, and cause to be kept, the peace of our Lady the Queen, her heirs and successors, and all acts and statutes made, and to be made, for the conservation of the peace, and for the quiet rule and government in the respective counties for which they shall be commissionated, as aforesaid, and according as those acts and statutes do or shall direct, to chastise and punish all persons offending against those acts and statutes. And to cause to come before them, the said justices, or any of them, all such persons who shall threaten any of the people of our said Lady the Queen, her heirs or successors, concerning their bodies or estates, to find sufficient security for the peace or good behavior; and if they refuse to find such security, then to cause them to be safely kept in prison until they find such security. And to make due inquiry by good and lawful men of the said respective counties by whom the truth may be the better known, of all manner of felonies and other crimes and offenses whatsoever of which justices of the peace, justices of oyer and terminer, or of gaol delivery, may or ought lawfully to inquire by whomsoever or howsoever done or perpetrated, or which hereafter shall be done, or attempted in the said respective counties; and of all those who have gone or ridden, or hereafter shall presume to go or ride in companies with armed force against the peace, to the disturbance of the people. And also, of all those who have lain or shall lie in wait to maim or kill any of the Queen's subjects. And also, of inn-holders and keepers of taverns and ale-houses, and of all those who have offended or hereafter shall presume to offend in the abuse of weights and measures. And also of all sheriffs, clerks, coroners, gaolers, constables, or other officers whatsoever, who, in the execution of their offices about the premises or any of them, have unlawfully demeaned themselves, or hereafter shall presume unlawfully to demean themselves or have been or hereafter shall be careless or negligent in the said respective counties. And to inspect, hear and determine all indictments or presentments whatsoever, to be taken before the said justices or any of them or which have been made or taken before the present or late justices of the peace, and judges of the late provincial courts in the said counties not as yet determined. And to make and continue process thereupon against all persons so indicted or pre-

sented, or which hereafter shall be indicted or presented before the said justices, until the said persons be apprehended, render themselves, or be outlawed. And that the said justices in their said general sessions, shall have power, and are hereby empowered to hear and determine all burglaries, burning of houses, robberies, grand and petty larcenies, rape, sodomy, buggeries, incests, fornications, polygamies, transgressions, false conspiracies, unlawful maintenances, champerties, embraceries, barrateries, forestallings, regratings, engrossings, extortions, frauds and deceits of persons getting money and other things by false tokens or counterfeit letters, in any other person's name; or of tradesmen making their manufacture, or using their trades deceitfully; assaults, batteries, bloodsheds, mayhem, forcible entries, forcible detainers, nuisances, encroachments, disorders between masters and servants, disorders in ale-houses and taverns, unlawful gaming, entertaining inmates, unlawful assemblies, riots, routs and indictments aforesaid, and all and singular the premises, and all other crimes and offenses, of what natures, names or qualities soever they be, which have been or shall be done, committed, perpetrated or happen within the said respective counties against the common law or against the form of any law of this province (excepting treasons, murders, and such other crimes as shall be by the laws of this province, made felonies of death) and to chastise and punish all persons offending in the premises, and every of them, for their offenses, by fines, ransoms, amercements, forfeitures, or otherwise, as ought and hath been used to be done, according to law, and the form of the acts, ordinances and statutes aforesaid: And to commit to prison, let to bail, and discharge offenders of or for offenses or crimes cognizable before them the said justices: And to take recognizances and obligations in such cases as the law doth or shall direct: And to grant and issue forth all and all manner of writs, precepts and process, which by law are or ought to be awarded or issued in or upon the procedure of any of the offenses, matters, causes and things hereby made cognizable in the said courts of general quarter-sessions and gaol delivery. And generally to minister common justice, and to do, exercise, hear, determine and execute all things within

the said respective counties and limits of their commissions and authorities, as near as conveniently may be to the laws of Great Britain, and according to the laws of this province, as fully and effectually as any justices of assize, justices of oyer and terminer, or of gaol delivery, or justices of the peace may or can do.

Provided always, That nothing herein contained shall empower the said justices in the said general sessions to hear and determine any presentment or indictment made or taken before the late judges of the provincial courts of this province for or concerning any treason or murder; but that all and every the indictments and presentments, so made and taken for or concerning any treasons or murders, not as yet determined, as also all treasons, murders and such other crimes as shall be by the laws of this province made capital or felonies of death, which have been or shall be done, committed, perpetrated or happen within this province, shall be heard, tried and determined by and before such and so many commissioners of oyer and terminer and of gaol delivery, as shall be especially named and constituted for that purpose, by the governor, or lieutenant-governor for the time being, under the great seal of this province, whenever there shall be occasion, which said commissioners shall have power to deliver the gaols of all persons committed for treasons, murders, and such other crimes as by the laws of this province shall be made capital or felonies of death; and for that end, to issue forth such necessary precepts and process, and force obedience thereto, as justices of assize, justices of oyer and terminer, and of gaol delivery, may or can do in the realm of Great Britain.

Provided also, That if any presentment shall be made in the said sessions of the peace for or concerning any crimes or offenses which by law may be inquired of but not heard or determined in the said sessions of the peace, then and in every such case all such presentments or inquisitions of those offenses shall be set down in writing, indented and sealed by the grand inquest, one part to remain with them, and the other part with the justices of the peace, in order to be delivered by one of them to the said special commissioners of oyer and terminer at their

next succeeding court, there to be proceeded upon as the law in such cases shall direct.

[Section VI.] And be it further enacted by the authority aforesaid, That the said justices of the peace, or any three of them, may, pursuant to their said commissions, hold special and private sessions, when and as often as occasion shall require. And that the said justices, and every of them, shall have full power and authority, either in or out of sessions, to take all manner of recognizances and obligations, as any justices of the peace in Great Britain may, can or usually do; all which said recognizances and obligations shall be made to the Queen, her heirs and successors; and all recognizances for the peace, behavior, or for appearance, which shall be taken by any of the said justices, out of sessions, shall be certified into their said general sessions of the peace to be holden next after the taking thereof, where the justices may, by virtue of this act, discharge and cancel any of those recognizances and obligations, as they shall see meet; and every recognizance taken before any of them, for suspicions of any manner of felony, or other crime, not triable in the said court of general quarter-sessions of the peace and gaol delivery, shall be certified before the said special commissioners of oyer and terminer, to be holden next after the taking thereof, without concealment, detaining or embezzling of the same. But in case any person or persons shall forfeit his or their recognizances of the peace, behavior or appearance, for any cause whatsoever, then the said recognizances, so forfeited, with the record of the default or cause of forfeiture, shall be sent and certified, without delay, by the justices of the peace, into the said supreme court, as the case may require, that thence process may issue out against the parties, according to law. All which forfeitures shall be levied by the proper officers, and shall go to the governor.

[Section VII.] And be it further enacted by the authority aforesaid, That all fines and amercements which shall be lost before the justices of the said courts of general quarter-sessions of the peace and gaol delivery, or before the said special commissioners of oyer and terminer, shall be taxed and affeered by the said justices and commissioners respectively, and shall be

set truly and duly, according to the quality of the offense without partiality or affection, and shall be yearly estreated by the prothonotaries and clerks of the said court respectively into the said supreme courts, to the intent that process from thence may be awarded to the sheriff of every county, as the case may require for levying such of the said fines and amercements, as shall be unpaid, to the uses for which they are or shall be appropriated.

Provided always, That none of the said courts of the general quarter-sessions of the peace shall be kept and continued above the space of three days in the county of Philadelphia, at any of the times hereinbefore appointed to hold and keep the same courts and sessions there, nor above the space of two days in either of the said counties of Bucks and Chester, respectively, at any of the said times hereinbefore appointed to hold and keep the said courts and sessions there, in manner aforesaid.

Provided also, That nothing herein contained shall deprive or abridge the mayor, recorder or aldermen of the city of Philadelphia of any powers, privileges, jurisdictions or franchises granted them by charter, or the laws of this province.

And to the end that persons indicted or outlawed for felonies, or other offenses in one county or town corporate, who dwell, remove or be received in another county or town corporate, may be brought to justice:

[Section VIII.] It is further enacted, That the said justices, commissioners and magistrates in any court, in any county or town corporate within this province, assigned to hear and determine such felonies or offenses, shall direct their writs or precepts to all or any the sheriffs or other officers of the said counties, or towns corporate, within this province, where need shall be, to take such persons indicted or outlawed. And that it shall and may be lawful to and for all and every the said justices, commissioners and magistrates, to issue forth subpoenas and other warrants, under their respective hands and seals, into any county or place of this province, for summoning and bringing of any person or persons to give evidence in and upon any matter or cause whatsoever, now or hereafter examinable, or in any wise triable by or before them, or any of them, under such

pains and penalties, as subpoenas, or warrants of that kind usually are, or shall be granted or awarded.

[Section IX.] And be it further enacted by the authority aforesaid, That if any person or persons shall find him or themselves aggrieved with the judgment of any of the said courts of general quarter-sessions of the peace and goal delivery, or of any of the said courts of special oyer and terminer, or of any of the courts of record for the said city of Philadelphia, or of any other town corporate within this province, it shall and may be lawful to and for the party or parties so grieved, to have his or their writ or writs of error, which shall be granted them of course, in manner as other writs of error are, by this act, to be granted, and made returnable to the supreme court of the proper county, so as no person or persons whatsoever shall, by virtue or color of any such writ of error be let to bail, or out of prison, if his or their crime, for which he or they are convicted, be felony or death by the laws of this province.

Provided always, That when any writ of error shall be granted upon any judgment given, or to be given in any court of record held or to be holden for the said city of Philadelphia, the mayor, recorder and aldermen of the said city of Philadelphia, and their successors, or any of them, shall not be compelled upon any of the said writs, or any other writ or writs directed unto them, or any of them, to remove, send or certify into the said supreme court or elsewhere, any of the indictments or presentments taken, or to be taken before them, or the record of the judgments and proceedings upon any such indictments or presentments, but only the tenors or transcripts of the said records, under their common seal; and after such judgments are reversed or affirmed, or causes lawfully removed from the said city courts, are tried in the said supreme courts, it shall be lawful for the mayor, recorder and aldermen, and their successors, to proceed to execution or otherwise, as shall appertain, according to the direction of the judges.

[Section X.] Provided also, and it is hereby enacted, That the magistrates and constables of the city of Philadelphia, and the justices, sheriffs, coroners and constables of the said respective

counties of this province shall attend the said supreme courts as also the said courts of special oyer and terminer and perform their respective duties therein as the law doth or shall require.

[Section XI.] And be it further enacted by the authority aforesaid, That the justices of the said courts of general quarter-sessions, in the respective counties for which they are commissioned as aforesaid, shall hold and keep a court of record in every county, which shall be called and styled the county court of common pleas, and shall be holden four times in every year at the places where the said quarter-sessions shall be respectively kept as aforesaid, in the months commonly called as followeth: (That is to say) at Philadelphia for the city and county of Philadelphia, on the first Wednesday in March, June, September and December; at Bristol, for the county of Bucks, on the second Wednesday in every of the same months; and at Chester, for the county of Chester, on the last Wednesday in May, August, November and February. Which said justices or any three of them, within the limits, and according to the tenor and directions of their commissions and authorities to them appointed as is aforesaid, shall hold pleas of assizes, *scire facias*, replevins and hear and determine all and all manner of pleas, actions, suits and causes, civil, personal, real and mixed as near as conveniently may be to the rules of the common law, and to the course and practice of the Queen's court of common pleas at Westminster, and according to the laws and constitutions of this province.

[Section XII.] And be it further enacted by the authority aforesaid, That every of the said justices shall grant replevins, and all writs and process upon the said pleas, plaints and actions, as occasion shall require the same to issue out of the prothonotary's office under the county seal. And that there shall be a prothonotary or clerk of the said courts of general quarter-sessions and common pleas in every county of this province, who shall attend upon the said justices for the entering of all pleas, process and matters of record in the same courts. And that the sheriff, coroner and constables of every county shall attend upon the said justices at their said courts.

[Section XIII.] And be it further enacted by the authority

aforesaid, That any one or more of the said justices in every county of this province, as they shall see occasion, may sit once in every six weeks, at the place where the said courts of common pleas shall be usually held, to the end only that original writs and process may be made returnable there, and rules for pleas, replication and other pleadings may be there given, and issues joined, and other preparations made for expediting the trials of causes depending in the said courts of common pleas; and that judgments, for want of appearance, or for not entering pleas, replication, and other pleadings may be there given and obtained.

Provided always, That no dilatory plea shall be received in any court of this province, unless the truth thereof shall be proved by affidavit or attest, or some matter shown to induce the court to believe the fact true.

Provided also, That any defendant in any action or suit, or any plaintiff in replevin in any of the said courts of common pleas, may, with the leave of the court, plead as many several matters as he thinks necessary. But if such matters shall upon demurrer be judged insufficient, costs may be given at the discretion of the court; or if a verdict shall be found upon any issue in the said cause for the plaintiff, costs shall be also given in like manner, unless it appears to the court, that the defendant or plaintiff in replevin, had a probable cause to plead such matters, which upon the said issue shall be found against him.

Provided also, That if it shall appear to the justices, that it will be proper and necessary, that the jurors who are to try such issues, shall view the messuages, lands or places in question, the better to understand the evidences in such cases, the justices may order special writs of view to issue to the sheriff, commanding him to have six out of the first twelve of the jurors named in the panel, at the place in question, some time before the trial, who then and there shall have the matters in question shown unto them by two persons in the said writs named to be appointed by the court, and the sheriff or other officer who executes the said writ, shall specially return the view made as aforesaid.

[Section XIV.] And be it further enacted by the authority aforesaid, That after demurrer joined and entered in any action or suit, in any court of record within this province, the justices shall proceed and give judgment, according as the very right of the cause and matter of law shall appear unto them, without regarding any imperfection, omission or defect in any writ, return, plaint, declaration or other pleading, process or course of proceeding whatsoever, except those only which the party demurring shall especially and particularly set down and express, together with his demurrer, as causes of the same, notwithstanding that such imperfection, omission or defect might have heretofore been taken to be matter of substance, and not aided by the statute of 27th of Elizabeth, Chapter the 5th, so as sufficient matter appear in the said pleadings, upon which the court may give judgment, according to the very right of the cause. And that no advantage be taken of an immaterial traverse, or default of entering pledges on any bill or declaration, or default of alleging the bringing into court of any bond, bill, indenture or other deed whatsoever, mentioned in the declaration or other pleading, or of bringing into court letters testamentary, or letters of administration, or by reason of omission of (with force and arms) or (against the peace) or for want of averring (this he is ready to verify) or for not alleging (as appears by the record). But the court shall proceed and give judgment according to the very right of the cause, as aforesaid, without regarding any such imperfections, omissions or defeats, or any other matter of like nature, except the same shall be specially and particularly set down and shown for cause of demurrer.

[Section XV.] And be it further enacted by the authority aforesaid, That in all actions upon any bond or penalty, for non-performance of covenants, the plaintiff may assign as many breaches as he shall think fit, and the jury at the trial shall and may assess damages for such of the said breaches as the plaintiff shall prove broken, and the like judgment shall be entered on such verdict, as hath been used in such actions. And if judgment be given for the plaintiff, upon demurrer, confession or *nihil dicit* the plaintiff upon the roll may suggest as many breaches as he shall think fit, upon which shall issue a writ

to summon a jury to inquire of the truth of every one of those breaches, and to assess damages accordingly, and to return the same to the court where the cause depends, and thereupon the proceedings shall be according to a statute made in the eighth and ninth years of William the Third, Chapter the 11th, entitled "An act for the better preventing frivolous and vexatious suits," which said statute shall, in that and all other things, be observed and put in practice in this province, so far as circumstances can admit.

And where any action of debt is or shall be brought upon any single bill or *scire facias* upon judgment, and the money due thereon paid, such payment may be pleaded in bar to such action or *scire facias*. And where an action of debt is brought upon a bond with condition or defeasance to be void upon payment of a lesser sum at a day or place certain, if the obligor, his heirs, executors or administrators have, before the action brought, paid or offered to pay the obligee, his executors, administrators or assigns, the principal and interest due by such condition or defeasance in the specie therein mentioned, though such payment or tender shall not appear to be strictly made, according to the said condition or defeasance, yet such payment shall be as effectual a bar of such action as if the money had been paid according to the condition or defeasance, and had been so pleaded; And such tender shall be a bar of damages and costs in such action and if at any time pending an action upon any such bond, the defendant shall offer to the plaintiff the principal and interest in the specie mentioned in the condition of such bond, with cost expended in law and equity, or shall bring the same into court, it shall be deemed a good discharge of the said bond and the court shall give judgment to discharge every such defendant accordingly. And when a penalty is declared for, the plaintiff shall have judgment but for his real debt, interest and charges, with such damages as the court shall adjudge, and the defendant shall, by the court's order, be discharged upon the record for the residue.

Provided always, That in all cases where the plaintiff recovers judgment, if at the instance or request of the defendant he delays taking out execution upon such judgment, then the

plaintiff shall have interest allowed from the day judgment is given.

[Section XVI.] And be it further enacted by the authority aforesaid, That if any person or persons find themselves grieved with the verdict of any jury, and have just cause to move in arrest of judgment, they may do so after verdict, and before judgment; but if they neglect their motion, and judgment be entered, then if they intend to avoid such judgment, they may have their writ or writs of error, which shall be granted them of course and made returnable before the judges of the said supreme court; and the plaintiff or plaintiffs in such writs of error shall bring the same to one or more of the justices of that court where such judgment was entered, and thereupon he or they, with one or more sufficient sureties, such as the said justice or justices shall approve of, shall become bound to the defendant or defendants in the writ of error, or the party for whom such judgment is given, by recognizance, in double the sum adjudged to be recovered by the said judgment; conditioned that the plaintiff in the writ of error hath good cause of error, and shall follow the same writ with effect; and if the judgment be affirmed in the supreme court, shall satisfy all the debts, damages and costs so adjudged, and all costs and damages for delaying of the execution by the writ of error. But before such recognizance be taken the said defendants in error may object the insufficiency of the sureties, which the justice or justices aforesaid, shall duly consider, and when the security is taken one of the justices of the same court shall allow the said writ of error, and subscribe his name to the *allocatur*, as also to the caption of the said recognizance; which writ of error, so allowed as aforesaid, shall be and is hereby declared to be a *superseideas* of itself, to any execution granted, or to be granted, or not executed until the said writ of error be determined or discontinued in the supreme court. But if any writ of error shall be quashed for variance from the original record, upon which it is grounded, in such error the defendant shall recover against the plaintiff the costs he should have had if the judgment had been affirmed.

Provided always, That no plaintiff in error having complied

with and satisfied the judgment given against him, in any of the said courts, nor any executor or administrator, against whom judgment hath been or shall be obtained for debt or damages, to be levied of the goods and chattels of the testator or intestate shall be obliged to give bail upon allowance of any writ of error, by any of them to be brought for reversing such judgments.

[Section XVII.] And be it further enacted by the authority aforesaid, That if any verdict of twelve men hath been or shall be given in any action, suit, bill or demand, in any court within this province, judgment thereupon shall not be stayed or reversed for any of the omissions, defects, variances or defaults helped by any of the acts of parliament in Great Britain, called statutes of jeofails, all which said statutes shall be observed in this province, and shall be extended to judgments entered or to be entered in any court of record, upon confession *non sum informatus*, or *nihil dicit*; which said judgments, also judgments given upon any writ of inquiry of damages executed thereon, shall not be stayed or reversed for or by reason of any imperfection, omission, defect, matter or thing whatsoever, which would have been aided by the said statutes of jeofails, so that the original writs and warrants of attorney in such cases be duly filed.

[Section XVIII.] And be it further enacted by the authority aforesaid, That no freeholder inhabiting in any part of this province, shall be arrested or detained in prison by any writ of arrest or *capias ad respondendum*, in any civil action, unless it be in the Queen's case or where a fine is or shall be due to the Queen, her heirs or successors; but that the original process against such freeholders shall be a writ under the hand of the justice that grants the same, with the county seal affixed, directed to the sheriff or coroner of the proper county, commanding him to summon the defendant to be and appear at such a court, such a day of return; at which day if the defendant will not appear, but make default, and the officer to whom such writ shall be directed, or his attested or sworn deputy[ies] doth certify to the court that ten days before the day of the return of such writ he hath summoned the defendant, and served him

with a copy of the plaintiff's declaration or left notice in writing with a copy of the declaration at the defendant's dwelling-house in the presence of one or more of the defendant's family or neighbors, signifying that the defendant should be and appear, according to the contents of such writ; upon which return, it shall and may be lawful to and for the plaintiff, in such action to file a common appearance for the defendant so making default, and proceed to judgment and execution, which shall be as effectual in law, as if such defendant had actually appeared and confessed judgment, or suffered it to pass by *nihil dicit*. But if such freeholder be at any time arrested, the writ shall abate, and costs shall be given to the defendant by the court, where such writ is depending or returnable; for which costs, the like remedy shall be had, as in other cases where costs by law is [sic] given to defendants.

Provided always, That nothing herein or in any other act contained shall exempt any person or persons from being arrested or attached or shall debar any person or persons from having or taking out writs of arrest or attachment, so as the plaintiff in every such writ can make appear by affidavit, to be made by him, her or any other, upon oath or affirmation before the justice who grants such writ, testifying that the defendant in the same writ named, hath declared or signified his intentions of going to sea or of removing out of this province: or that the defendant in such writs hath refused or neglected upon demand, to give either real or personal security for the debt or sum owing to the plaintiff in such writ; or refused without process to appear and put in special bail to the plaintiff's action for the debt, matter or cause, for which he or she sues or complains: or that the defendant in such writ hath not been a resident in this province for the space of two years next before the taking out of such writ; or where the deponent can declare he is credibly informed or believes (giving the justice a particular account of the grounds of his information or reasons of his belief) that the defendant hath not a freehold estate in houses or lands in this province, to the value of the debt demanded, clear of all mortgages, extents or other incumbrances, but that in any of the said cases, writs of arrest or attachment shall issue forth against every such defendant, as occasion may require.

Provided also, That if the plaintiff in any of the said writs of arrest or attachment can make appear by affidavit to be made and taken as aforesaid, that the defendant lurks in secret places or absents from the place of his usual abode or conceals himself in his own house or in the house of any other, or suffers himself to be arrested or his goods attached or taken in execution for a debt or sum not due or makes over his lands, goods or chattels to some of his creditors or others, to defraud or deprive the rest of his creditors of their proportions of his effects; in which cases, as also in case the defendant is going to sea or removing out of this province, and refuseth to give security or appear gratis and put in special bail to the plaintiff's action as aforesaid, writs of arrest or attachment shall issue forth, as the case may require. All which affidavits shall be filed in the same court where such writs are returnable. And in case the day appointed by obligation or contract for payment of the debt or sum demanded, of any such defendant, be not come, nevertheless, writs of arrest or attachment shall issue forth, respectively as the case requires, directed to the sheriff or other officer, commanding him to take the body or attach the goods of the defendant in such writs, and to detain the same in safe custody until the day of payment be incurred, unless he or she shall find sufficient pledges or security for payment of the debt or sum, on the day wherein the same ought to be paid as aforesaid; and no defendant shall in such cases be received to plead that the writ precedes the day of payment; but may plead other matters in discharge or avoidance of such debt or demand; and if the defendant in any such writ or writs shall not appear on the day of the return thereof, then the sheriff or other officer to whom such writ or writs are directed shall return the same in due form. And thereupon the plaintiff may file a common appearance for such defendant so making default, and proceed to judgment and execution; which shall be as effectual in law as if such defendant had actually appeared and confessed judgment or suffered it to pass by *nihil dicit*. But the defendant in all attachments shall have liberty within a year and a day next after such judgment, to come into court and disprove or avoid the debt as hath been used.

Provided also, That no freeholder, inhabiting within this province, who by this act is exempted from arrests shall be obliged to put in special bail, unless the plaintiff's declaration be filed in the prothonotary's office, and the debt thereby declared for be twenty pounds or upwards; but in all actions of debt against such freeholder for a lesser sum common bail shall be accepted.

Provided also, That no person who shall be taken upon any of the said writs of arrest for any cause wherein by law he is bailable, shall be forced to give security or enter into bond with sureties for his appearance at the day in such writ specified, in any sum above forty pounds, unless the cause of action be either expressed in the writ or endorsed upon it particularly. And where the cause of action is not so expressed, or the declaration filed, the sheriff or other officer who executed such writ, shall let to bail and deliver out of prison the person so taken or arrested, upon security in the sum of forty pounds, and no more, given for appearance of such person or persons so arrested, unto the said sheriff or officer, according to the statute in the three-and-twentieth year of King Henry the Sixth, in that behalf made and provided, and upon appearance by the defendant or his attorney in the court, on the day when such writ shall be returnable, the bond so given shall be discharged, unless it shall appear to such court, that the matter requires special bail to be put in by such defendant, in which case the bail-bond shall not be discharged, but the sureties named in such bail-bond shall stand bound, and they are hereby obliged to bring the body of the principal, if he be condemned or else pay the debt or sum he shall be condemned in, not exceeding such bail-bond. And where any person is or shall be arrested at any common person's suit, and bail taken as aforesaid, the sheriff or other officer shall assign the bail-bond or other security to the plaintiff therein named, by endorsing the same before two witnesses; and if the same bail-bond or security be forfeited after such assignment made, the said plaintiff may bring an action thereupon in his own name, and the court, where such action is brought, may by rules give such relief in the original action or suit, as shall be agreeable to justice; and such rules shall have the effect of a defeasance to such bail-bond or security.

Provided also, That before any definite judgment be given by default in any of the cases aforesaid, the court or jury of inquiry as the case may require, shall examine and hear the plaintiff, and the evidence that shall be produced on the plaintiff's part, to maintain the action and prove the debt or matter declared for.

Provided also, That no judgment shall be entered of record in any court of this province, unless it be signed by one of the justices who gave the same, nor any costs of suit be set down upon any of the said judgments so entered, before the same costs be taxed and allowed by one of the said justices. And where a *capiatur* is to be entered upon judgments in actions of trespass, ejectment, assault, and false imprisonment brought by party against party, in the said courts, the justice who signs such judgment shall have any sum not exceeding twenty shillings in full satisfaction of the *capiatur* fine, and shall make an increase to the plaintiff aforesaid. And if any judgment shall be acknowledged, or entered, and signed in the vacation time, the justice that signs the same shall set down the day of the month, and year of his so doing, upon the paper docket or record he signs, which day and year shall be also entered upon the margin of the roll of the record where the said judgment shall be entered, and shall have relation accordingly.

And to prevent the excessive charges that have of late arisen upon executing writs of inquiry of damages:

[Section XIX.] It is hereby enacted, That the justices who give the interlocutory judgment shall, at the motion and request of the plaintiff in the action where such judgment is given, or his attorney, make an order in the nature of a writ of inquiry, to charge the jury, attending the next court after such judgment is given, to inquire of the damages and costs sustained by the plaintiff in such action; which inquiry shall be made, and evidence given in open court; and after the inquest consider thereof, they shall forthwith return their inquisition under their seals; whereupon the court may proceed to give judgment, as upon inquisitions of that kind returned by the sheriff.

Provided always, That eight days' notice be given where

the defendant or his attorney appears to the action, as is usual upon executing writs of inquiry; and such inquest shall have and receive so much and no more than by law shall be allowed to juries that give their verdict upon issues joined. And if any of the witnesses to be produced to give evidence upon any trial or cause in the court of common pleas, in one county, do reside in another county of this province, it shall be lawful for any of the justices of that court, where such trial or cause is depending, to issue forth subpoenas and other process, to cause such witnesses to come to give evidence at the said court, under such pains as writs or precepts of that kind are usually granted.

[Section XX.] And be it further enacted by the authority aforesaid, That when any debt is recovered, damages awarded, or non-suit obtained in the said court, it shall and may be lawful for the plaintiff or defendant, who recovered or obtained the same, to take out his writ of *capias ad satisfaciendum, elegit, levandi or fieri facias*, as he shall think fit, and proceed thereupon, according to the course of proceedings upon such writs in Great Britain, having due regard to the directions of the laws of this province in the execution of lands.

[Section XXI.] And be it further enacted by the authority aforesaid, That when any sheriff or other officer to whom any of the said writs of execution shall be directed, shall return that the party is not to be found, or hath no lands or tenements, goods or chattels in that county, and thereupon it be testified that the party is run into skulks, or lies hid, or hath lands, tenements, goods or chattels in any other county of this province, it shall and may be lawful to and for the court that issued out such execution, to grant, and they are hereby required to grant an alias execution, with a *testatum*, directed to the sheriff or coroner of the county or place where such person lies hid or where his lands or effects are, commanding him to execute the same, according to the tenor of such writ or writs, and make return thereof to the court of common pleas where such recovery is had or judgment given. And if the said sheriff or coroner to whom any such writs shall be so directed, shall refuse or neglect to execute and return the same accordingly, he shall be amerced in the court where he ought to return it, and be liable

to the action of the party grieved. And as for what charges shall arise or accrue after the first execution is awarded, either for other or more writs of execution or for appraising lands or chattels or for portage of goods or otherwise, over and above the costs and damages inserted in the said first execution, the plaintiff or party who obtained such execution, shall be paid and satisfied the same out of the money which shall be made and levied of the lands or other effects taken in execution, according as the court, where the last execution is returned, shall award.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any person or persons, being defendant or defendants in any suit or action, who shall, by reason of their speedy departure out of this province, require a more speedy determination in the premises, than can be had in the said court of common pleas, upon application to the justices of the said court, they shall grant such defendant special courts and shall proceed to hear and determine the premises according to the course and practice of the said court of pleas.

Provided always, That before the said justices shall grant such special court, or proceed to hear and determine the premises, such defendant shall give bail to the plaintiff's action, by recognizance, according to the course and practice of the said common pleas. Provided also, That the fees due to the justices and officers of such special court, for anything done there shall be double the fees usually by them taken for the same, in the said court of common pleas, anything herein or in any other law contained to the contrary notwithstanding.

[Section XXIII.] And be it further enacted by the authority aforesaid, That every fraudulent gift, conveyance or assurance of lands or goods to deceive creditors, shall be void, and the creditors shall have execution thereof, as if no such gift or assurance had been made. And all such bonds, suits, judgments and executions made to avoid the debt or duty of others, shall (as against the party only whose debt or duty is so endeavored to be avoided) be utterly void. And that the parties and privies to such frauds shall be punished, as is appointed by the several statutes made in Great Britain against such frauds; all which

statutes, as also all other statutes made in Great Britain for the relief of creditors in that behalf shall be put in execution in this province.

[Section XXIV.] And be it further enacted by the authority aforesaid, That writs of partition between copartners by the common law, joint tenants and tenants in common may be brought and proceeded on in the said courts of common pleas, for the proper county, as near as may be according to the course of proceedings in Great Britain, upon such writs, and as a statute made in the eighth and ninth years of the reign of the late King William the Third, entitled "An act for the easier obtaining partitions of lands in coparcenary, joint tenancy and tenancy in common," doth direct. And that all actions of waste, whether the same be grounded upon the common law or statute laws of Great Britain, may be brought and proceeded on in any of the said courts of common pleas, in the proper county. And that actions of account may be also brought and proceeded on in any of the said courts of common pleas of the proper county, against the executor of every guardian or bailiff; and also by one joint tenant and tenant in common, his executors or administrators against the other, as bailiff for receiving more than his proportion, and against the executors or administrators of such joint tenant or tenant in common. And the auditors appointed by the court, where such actions depend may administer attests and examine the parties and witnesses; and for their pains in auditing such accounts, to be paid by the party on whose side the balance appears, as by a statute made in the fourth and fifth years of the reign of the Queen that now is, entitled "An act for the amendment of the law and better advancement of justice," is ordained.

Provided, That no falling or destroying of timber trees for the necessary improvement of land or making plantations, nor the falling of timber trees for building or repairing any houses upon such plantations, nor the felling and cutting of wood and timber for any other use, unless the same be sold or carried off from the land it grew on, shall be adjudged waste, punishable within this province.

[Section XXV.] And be it further enacted by the authority

aforesaid, That there shall be a court of equity held by the justices of the said respective county courts of common pleas, four times a year, at the respective places, and near the said times as the said courts of common pleas are held, in every county of this province. And that the prothonotary of the common pleas shall be the register of the said court of equity in every county. Which said justices or any three of them within the limits of their commissions and authorities to them appointed as is aforesaid, shall have full power, and are hereby empowered and authorized to hear and decree all such matters and causes of equity, as shall come before them in the said courts, where the proceedings shall be as heretofore, by bill and answer, with such other pleadings as are necessary in chancery courts, and proper in these parts; with power also for the said justices of the respective courts of equity to issue forth all manner of subpoenas and all other process as may be needful to oblige and force defendants to answer suits there; as also to award commissions for taking answers, and examining witnesses; and to grant injunctions for staying suits in law, and stopping waste as there may be occasion, observing, as near as may be, the rules and practice of the high court of chancery in Great Britain; with power also to make orders, and award all manner of process, and do all other things necessary for bringing causes to hearing, and to force obedience to their decrees in equity, which may be by imprisonment of bodies or sequestration of lands; and admit bills of revivor, as the case may require. And if any defendant or defendants in any suit, which shall be commenced against them in one of the said counties shall after he or they are served with a subpoena or other process, remove into any other county of this province, all process necessary to bring such defendants to answer, and all commissions for taking their answers, and examining of witnesses, with all other proofs necessary to bring such causes to a hearing, shall and may be awarded out of the court where those causes or suits shall be first commenced, into any other county of this province, as the case may require.

Provided always, That no subpoenas or other process for appearance shall issue out of any of the said courts of equity, till

the bill is filed with the proper officer, except bills for injunctions to stay wastes or suits at law.

Provided also, That if any person or persons shall find themselves grieved with any decree or sentence made or given by the said justices in equity, it shall and may be lawful to and for him or them so grieved, forthwith to appeal or have recourse to the judges of the supreme court, to set forth his or their case by petition, bill or plaint, so as the sum adjudged to be paid by such decree amount to ten pounds or upwards this country money; and so, as he or they so appealing first pay down the court charges, and either satisfy the decree or sentence, so given, or deposit with the justices the sum awarded, or give sufficient security to prosecute the said appeal, and to pay all costs and damages that shall be awarded against him or them; and then, albeit the party appealing be imprisoned upon that decree or sentence, he shall be enlarged; and that such appeals shall supersede all further process upon the decree or sentence appealed from, till the same be heard, tried or dismissed in the said supreme court.

Provided also, That nothing herein contained shall give the said justices any power or authority to hear, decree or determine in equity, any matter, cause or thing wherein sufficient remedy may be had in any other court or before any other magistrate or judicature in this province, either by the rules of the common law or according to the tenor and directions of the laws of this province; but that when matters determinable at common law shall be brought before them in equity, they shall refer or remit the parties to the common law; and when matters of fact shall happen to arise upon their examination, or hearing of the matters and causes to be heard and determined in the said court, then and in every such case, they shall order the matter of fact to issue and trial at the court of common pleas, for the proper county, where the fact ariseth, before they proceed to sentence or decree in the said court of equity.

[Section XXVI.] And be it further enacted by the authority aforesaid, That if any prothonotary or clerk of the aforesaid supreme courts or of the said courts of general quarter-sessions of the peace and goal delivery or of the said courts of common

pleas, or register of the courts of equity, shall misbehave himself in the execution of his office, and be thereof legally convicted he shall be suspended or discharged from the same; and in such case the governor or magistrates, to whom of right it shall belong, may appoint another fit person to be prothonotary or register in his room; and in case of neglect or refusal to make such appointment before the next court after such refusal, the judges of that court may then appoint one. And that the like method may be used by the mayor, recorder and aldermen of the city of Philadelphia, for suspending or discharging the clerk of the courts of the said city; and in such case they may appoint others, in the room of him or them who shall be so suspended or discharged. And the said justices and mayor and recorder respectively may admit any attorney or attorneys to plead in any of the said courts respectively; and upon the misbehavior of such attorney or attorneys, to suspend or prohibit their pleading in any of the said respective courts.

And for the better executing of the powers and jurisdictions by this act granted or intended it may be lawful to and for the said judges and justices of the said respective courts, to make and publish all and every such reasonable rules and orders as may be fit and necessary to regulate the officers, and ascertain the practice of the courts they belong to.

Provided always, That no judges, justices or other persons shall by any means, or under any pretence whatsoever, make, promote, introduce or suffer any rule, order or practise in any of the said courts, that shall exact greater fees than what are or shall be allowed by the laws of this province or, which may debar or render any person or persons, who for conscience' sake shall scruple to take an oath in any case, incapable to serve, officiate or act in any office, duty or service whatsoever.

[Section XXVII.] And be it further enacted, That it shall and may be lawful to and for any person or persons who are or shall be unjustly disseized or kept out of their lands, tenements or hereditaments, to which they have or claim any estate or right of inheritance, to take out their writ or writs of summons against the tenant in possession of such lands or hereditaments; and in their declaration shall set forth their right to the

lands or tenements in question; and if such tenant will not appear at the day of the return of the summons, then the demandant or plaintiff shall take out a grand *cape*, upon which, if the tenant or defendant does not appear at the return thereof, the demandant shall recover by default, and have a writ of seizin of the lands.

[Section XXVIII.] And be it further enacted by the authority aforesaid, That all and every the pleas, writs, bills, actions, suits, plaints, process, pleadings, proceedings, indictments and informations, causes and things whatsoever pleaded, returned, depending or being, in all and every or any of the courts of law and equity within the said province, shall be, and are hereby continued, and may be proceeded upon at the respective courts, hereby erected and appointed to have conusance of such pleas.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 30, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed March 27, 1712-13, Chapter 198, and May 28, 1715, Chapters 212, 213 and 215.

CHAPTER CLXIX.

AN ACT FOR REGULATING AND ESTABLISHING FEES.

For prevention of extortion and undue exactions of fees of the several officers and practitioners of law in this province, and to the end that all fees may be limited, and reduced to certainty:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the fees of the several and respective lawyers and officers in this province shall be as is hereinafter respectively ascertained, limited and appointed, viz.,

That the fees belonging to the keeper of the great seal of this province shall be as followeth, viz.,

For affixing the seal to the lieutenant-governor's commission, to be paid by the public,	forty shillings.
For affixing the seal to the keeper of the great seal's commission,	thirty shillings.
For affixing the seal to any body of laws, passed in any session of the assembly,	thirty shillings.
For affixing the seal to any first copy of such body of law, for the royal assent, or proprietary's use, sent home,	twenty-five shillings.
For affixing the seal to each other copy for royal approbation,	one pound.
For affixing the seal to each private law, for sale of lands, or hereditaments,	one pound.
For affixing the seal to an exemplification of such laws,	ten shillings.
For affixing the seal to the master of the roll's commission,	thirty shillings.
For affixing the seal to every provincial judge's commission, to be paid by the public,	twelve shillings.
For affixing the seal to a special commission of oyer and terminer, to be paid by the public,	twelve shillings.
For affixing the seal to a commission of the sheriff of the county of Philadelphia,	sixteen shillings.
For affixing the seal to a commission of the sheriff of Bucks and Chester, each,	eight shillings.
For affixing the seal to a writ of assistance,	four shillings and six pence.
For affixing the seal to a proclamation,	four shillings and six pence.
For affixing the seal to a commission of the peace, to be paid by the public,	ten shillings.
For affixing the seal to the attorney general's commission,	twelve shillings.
For affixing the seal to the secretary's commission,	ten shillings.
For affixing the seal to the surveyor general's commission,	six shillings.
For affixing the seal to a commission for the clerk of the county of Philadelphia,	sixteen shillings.

For affixing the seal to a commission for the clerk of the county of Bucks or Chester, each, eight shillings.

For affixing the seal to the register-general's commission, thirty shillings.

For affixing the seal to each coroner's commission, four shillings and six pence.

For affixing the seal to a charter for a city, five pounds.

For affixing the seal to a charter for a borough or town, fifty shillings.

For affixing the seal to the proprietary's receiver-general's commission, ten shillings.

For affixing the seal to a special commission to try negroes, six shillings.

For affixing the seal to any single law passed in any session of assembly (other than private acts), six shillings.

For affixing the seal to each patent for lands, containing five hundred acres or under, four shillings and six pence.

For affixing the seal to each patent for lands above five hundred acres, for the first five hundred acres, four shillings and six pence; and for every other hundred acres, above the said five hundred acres, three pence, and so proportionably.

For affixing the seal to each patent for a front lot, four shillings and six pence.

For affixing the seal to each patent for a bank lot, four shillings and six pence.

For affixing the seal to each patent for a back lot, four shillings and six pence.

And that the fees belonging to the master of the rolls, shall be as followeth, viz.,

For recording the laws of the province in a fair, close hand, including parchment or book, for every line, not less than twelve words, one with another, three farthings.

For exemplification or copying of all laws under the seal, for the royal assent, or for the several counties of this province, like fees as aforesaid.

For recording of all patents, commissions, proclamations and other instruments and things recorded in the said office, for each line, three farthings.

- For exemplifying and copying of all such patents and commissions, and other instruments as aforesaid, for each line, as it stands recorded, three farthings.
- For recording deeds, writings and things appertaining to the enrolment office, for each line as aforesaid, three farthings, he finding paper or parchment.
- For a copy or exemplification of any record in the said office of enrolment, as it stands recorded, for each line, three farthings.
- For searching any roll or record, one shilling and six pence.
- For the seal of said enrolment office to each deed or writing, proved or acknowledged, one shilling.
- For endorsement of a certificate on each deed proved or acknowledged, and his hand thereto, one shilling; and shall have, receive and take for every deed or patent that shall lie in his hands (unpaid for by the owner) above the space of one month next after the same is recorded, for every month then following, so long as the same shall remain unpaid for as aforesaid, the sum of two pence.
- And that the fees belonging to the justices of the supreme court shall be as followeth, viz.,
- For allowing and putting his hand to the *allocatur* of every *certiorari* for removing of indictments, orders, etc., seven shillings and six pence.
- To the chief justice, for every cause brought into court by *certiorari* or writ of error, five shillings.
- For taking bail to prosecute a *certiorari* when taken before him, [four shillings].
- For judgment upon every writ of error or other matter to the bench, ten shillings.
- To the chief justice, every day he sits in court, thirty shillings per diem.
- To each of the other justices, when they sit, twenty shillings per diem.
- And that the fees belonging to the governor's secretary, or clerk of the council, shall be as followeth, viz.,
- For reading and entering every petition to the governor and council for laying out high roads, four shillings and six pence.

For entering their order thereupon, for laying out the road, and entering the return thereof when laid out,	six shillings.
For copy thereof, if required,	four shillings.
For a copy of every order on a petition,	three shillings.
For reading and entering every other petition, and the return thereof,	three shillings.
For a Mediterranean pass or a let-pass, if required,	four shillings.
For a [ship's] register,	four shillings.
For the provincial judge's commission, and commissions of oyer and terminer, or for trial of negroes, each,	eight shillings.
For general commissions of the peace, each,	nine shillings.
For a single commision for a justice, coroner, sheriff or clerk,	four shillings and six pence.
For a warrant (under the lesser seal) to affix the great seal to any body of laws passed here,	five shillings.
For the same to affix the great seal to every single law, pro- vincial judge's commission, commission of the peace, or any other commission, proclamation or public instrument,	two shillings and six pence.
For the same to affix the great seal to any pardon,	seven shillings and six pence.
And that the fees belonging to the proprietary's secretary shall be as followeth, viz.,	
For every warrant for land, directed to the surveyor,	two shillings and six pence.
For every patent for land,	nine shillings.
For every recital of transference or mentioning more than one tract or parcel of land, nine pence each, more than the said nine shillings; the patent to be in parchment.	
And that the fees belonging to the justices shall be as follow- eth, viz.,	
For signing and sealing every warrant, <i>mittimus</i> , recogni- zance, certificate, pass or other instrument,	nine pence.
For taking a deposition or affidavit out of court,	one shilling.

- For taxing every bill of costs, and signing every judgment of court, [one shilling].
- For every cause where judgment is given for a debt under forty shillings, nine pence.
- For signing every summons, and for signing and sealing every execution for such debts, nine pence.
- For every judgment of a higher nature, bench fees, four shillings.
- For signing every writ or summons, other than for debts under forty shillings, one shilling.
- For signing every judicial writ, one shilling and six pence.
- For allowance of every writ of error, and subscribing his name to the *allocatur*, [two shillings].
- And that the fees belonging to the attorney-general shall be as followeth, viz.,
- For every capital cause, where life is concerned, eighteen shillings.
- For criminal matters, by bill of indictment found by the grand inquest, to be paid by the prisoner's effects or estate, which he had before conviction, or if no estate then out of the fines and forfeitures arising in the courts where such matter shall be tried, nine shillings; when not found by the grand inquest, four shillings and six pence.
- For drawing every indictment of felony, trespass, assault, battery, force, riot, etc., if drawn by the attorney-general and found by the grand inquest, three shillings; and if not found, one shilling and six pence.
- For drawing every indictment if drawn by him and found as aforesaid, wherein a statute or act of assembly is recited, four shillings and six pence.
- For drawing every information, four shillings and six pence.
- And that the fees belonging to the sheriff of every county of this province shall be as followeth, viz.,
- For serving a writ of arrest, and taking into custody, four shillings and six pence.
- For serving a summons, four shillings.
- For return of a summons, arrest or attachment, one shilling.

For delivery of a copy of a declaration, one shilling.
For every bail-bond, two shillings and six pence.
For traveling charges, for every mile, two pence.
For summoning or serving a witness with a subpoena, besides mileage, nine pence.
For summoning and returning the jury, in every cause where issue is joined, two shillings.
For a copy of the panel, when demanded by plaintiff or defendant, nine pence.
For returning of an execution for land, nine shillings.
For goods and chattels, one shilling and six pence.
For serving an execution, and selling the lands or goods executed or delivered to the creditor, and returning the *venditioni exponas* or *liberari facias* for any sum not exceeding twelve pounds, nine shillings; if above twelve pounds and not exceeding one hundred pounds, then for the first twelve pounds, nine shillings, and for every pound above the said twelve pounds, six pence and no more. And that no poundage be paid for more than the real debt or damages due to the plaintiff named in the execution.
For the turnkey fees, to be paid upon discharge of the prisoner, three shillings and six pence.
For executing writs of inquiry of damages, attesting the jury and making returns thereof, twelve shillings.
For executing every other writ of inquiry, and all writs or orders for partition of lands or tenements, attesting the jury for any matter or thing to be done by him about such partition and making returns thereof, twenty shillings; but if the business of the partition exceed what the jury can perform in one day, then the sheriff for every day more, that he shall attend on such jury about the said partition, shall have seven shillings and six pence.
For every judgment in civil causes, two shillings.
For assigning every bail-bond, two shillings.
For every criminal cause, eleven shillings and three pence.
For every capital cause, twenty-two shillings and six pence.
And that the fees belonging to the coroner of every county of this province shall be as followeth, viz.,

For viewing a dead body,	ten shillings.
For summoning the inquest,	four shillings.
For entering the verdict of the inquest,	two shillings and six pence.
For returning the inquisition,	one shilling and six pence.
For summoning or arresting the sheriff or any other person for him,	six shillings and six pence.
For traveling charges each mile,	two pence.
And that the fees belonging to the prothonotary or clerk of the supreme court shall be as followeth, viz.,	
For drawing upon parchment every prohibition or injunction, or <i>audita querela</i> ,	ten shillings.
For every writ of error, <i>habeas corpus</i> , <i>certiorari</i> , and other writs in parchment,	six shillings.
For entering every action or cause there,	two shillings.
For filing the errors assigned in every cause,	one shilling and six pence.
For every <i>retraxit</i> , discontinuance or quashing of a writ of error,	one shilling and six pence.
For entering every appearance,	two shillings.
For filing and entering any demurrer, plea, replication and every other subsequent plea and issue,	two shillings.
For calling the jury and attesting them,	three shillings.
For attesting each witness in every cause,	eighteen pence.
For recording every verdict,	two shillings.
For recording every judgment,	three shillings.
For every imparlance or continuance,	three shillings and four pence.
For entering every warrant of attorney, <i>committitur</i> or rule of court, each,	three shillings.
For every <i>venire facias</i> ,	six shillings.
For every <i>scire facias</i> ,	ten shillings.
For every <i>nolle prosequi</i> ,	thirteen shillings and four pence.
For drawing the recognizance, for prosecuting a writ of error or <i>certiorari</i> ,	four shillings.
For drawing the return of a writ of error, <i>habeas corpus</i> or <i>certiorari</i> ,	three shillings and six pence.
For reading the record, which is, all the proceedings below and above,	five shillings.

For filing a declaration,	one shilling and six pence.
For every subpoena to give evidence,	two shillings.
For reading every affidavit,	two shillings.
For every <i>fieri facias</i> or <i>capias ad satisfaciendum</i> ,	eight shillings.
For acknowledging satisfaction upon record,	four shillings.
For entering of record all the process and proceedings in every cause to be done in rolls of parchment, not less than ten inches wide, and for every line containing twelve words, two pence, and for copying, examining and signing the same, if required, two pence for every line as it stands on the record.	
And that the fees belonging to the prothonotary or clerk of the courts of general sessions of the peace and gaol de- livery, and common pleas, in every county of this province, shall be as followeth, viz.,	
For every warrant of the peace or behavior requiring to bring sureties, if drawn by the clerk,	one shilling and six pence.
For every common warrant, subpoena or <i>mittimus</i> , if drawn by the clerk,	one shilling.
For every examination, if written by the clerk, or deposi- tion, ¹	one shilling and six pence.
For every recognizance drawn by him,	two shillings and six pence.
For every indictment of felony, trespass, assault, battery, force, riot, etc., if drawn by the clerk,	four shillings.
For a copy thereof,	one shilling and six pence.
For drawing every indictment, wherein a statute or act of assembly is recited, if drawn by him,	five shillings.
For a copy thereof,	two shillings.
For drawing every information,	four shillings and six pence.
For a copy thereof,	two shillings.
For entering an appearance to every indictment or informa- tion,	one shilling and six pence.
For the discharge of every person, upon bail for the peace, good behavior, contempt or the like, with a warrant of dis- charge thereupon,	two shillings.

¹ "Disposition" in the original roll.

For awarding and making out process against the defendant upon an information or indictment,	three shillings.
For the discharge of every indictment where <i>ignoramus</i> is found,	two shillings.
For every plea of not guilty,	two shillings.
For entering every special plea or demurrer,	
	one shilling and six pence.
For entering every submission,	one shilling and six pence.
For attesting each witness in every trial,	nine pence.
For entering every verdict,	one shilling and six pence.
For entering every judgment,	one shilling and six pence.
For a copy of every judgment,	nine pence.
For every judicial writ in criminal causes,	
	three shillings and six pence.
For respiting a recognizance,	two shillings.
For every writ of restitution,	three shillings.
For drawing and entering every order of sessions,	
	one shilling and six pence.
For copying every order of sessions,	
	one shilling and six pence.
For reading and entering every petition,	one shilling.
For entering the return, at large, of a road laid out,	
	four shillings.
For copy thereof, for every sheet containing thirty lines and twenty words in a line,	two shillings and six pence.
For making every estreat, for levying fines and forfeitures,	
	one shilling and six pence.
For entering <i>similitur</i> to join issue,	
	one shilling and eight pence.
For relinquishing the plea, and entering submission,	
	eighteen pence.
For a <i>venire facias</i> ,	three shillings.
For reading the indictment and arraigning the criminal,	
	eighteen pence.
For respiting every session, after issue joined,	three shillings.
For reading every evidence upon trial,	one shilling.
For allowing every writ of <i>certiorari</i> , writ of error or <i>procedendo</i> ,	
	five shillings.

For entering a *nolle prosequi*, six shillings and eight pence.
For entering motion in arrest of judgment, eighteen pence.
For arresting the judgment, four shillings.
For a *habeas corpus*, three shillings.
For drawing up and examining every record of all the proceedings upon indictments or informations in the court of quarter-sessions, in rolls of parchment, not less than ten inches wide, for every line containing twelve words, one penny; and for the copy and signing thereof if required, one penny per line.
For writing every recommendation for a license to keep a public inn or ale house, for selling provision and all sorts of liquors, and making the bond or recognizance, and entering the said license and bond or recognizance, six shillings.
For every arrest, attachment or summons, four shillings and six pence.
For every replevin, four shillings and six pence.
For entering every action, one shilling.
For filing the declaration, nine pence.
For a copy of a declaration in an action of account, debt, detinue, trespass, *assumpsit*, trover, etc., one shilling and six pence.
For a copy of a declaration in an action of slander, covenant or waste, two shillings and six pence.
For withdrawing or discontinuing every action, nine pence.
For entering every appearance, one shilling and six pence.
For filing and entering every demurrer, plea, replication and pleas subsequent, and issue in every action, one shilling.
For entering every general issue, two shillings.
For a copy of every plea, replication and pleas subsequent, for each, one shilling and six pence.
For calling the jury and attesting them, one shilling and six pence.
For attesting each of the witnesses which shall give evidence upon every trial, nine pence.
For recording every verdict, one shilling and six pence.
For entering the judgment, one shilling and six pence.

For writing every writ of inquiry, *scire facias, venditioni exponas*, and execution and putting thereto the seal, each, six shillings.

For an imparlance or continuance,

one shilling and eight pence.

For entering a *committitur*, two shillings.

For entering every rule of court, one shilling and six pence.

For entering oyer of an obligation or other oyer,

two shillings and six pence.

For admission of every guardian or next friend,

four shillings.

For entering every warrant of attorney and filing,

one shilling and eight pence.

For entering every *curia advisare vult*, [two shillings].

For entering every *remittitur*, for debt or damages,

two shillings and six pence.

For docketing action and for drawing the bill of costs, each, nine pence.

For acknowledging satisfaction of a judgment upon record, two shillings.

For entering the sheriff's return of every writ of inquiry of damages or other judicial writ, three shillings.

For entering the record of all the process and proceedings in every civil action, in rolls of parchment, not less than ten inches wide, for every line containing twelve words, one penny; and [for] copying, examining and signing the same if required, one penny per line.

And that the fees belonging to the register of the court of equity shall be as follows, viz.,

For reading, entering and filing a bill of complaint, five shillings.

For reading, entering and filing an answer or demurrer, five shillings.

For reading, entering and filing a replication, four shillings and six pence.

For reading, entering and filing a rejoinder, four shillings and six pence.

For a subpoena to answer, three shillings and four pence.

For a subpoena for witnesses, not exceeding six persons,	two shillings and six pence.
For an injunction,	ten shillings.
For a copy of every bill, answer, replication, rejoinder and demurrer or report, for every sheet containing thirty lines, and ten words in a line,	two shillings and six pence.
For a commission under the county seal to take answers or examine witnesses,	six shillings.
For a copy of an order,	two shillings.
For entering a decree or sentence at large, one penny per line and each line to contain ten words; for copies thereof, if required, a penny for every line of the original thereof.	
For every process of contempt,	six shillings and eight pence.
And that the fees belonging to the officers of the court for determining debts under forty shillings, shall be as followeth, viz.,	
To the clerk for entering the action,	six pence.
To the clerk for writing the summons, with seal,	six pence.
To the constable for serving it,	
	nine pence and two pence per mile traveling charges.
To the clerk for entering the plea,	six pence.
To the clerk for entering judgment,	six pence.
To the clerk for writing the execution, with the seal,	
	one shilling.
To the crier for every cause called in court,	six pence.
To the constable for serving the execution,	one shilling.
To the turnkey for every prisoner, to be paid upon his discharge,	[one shilling].
To the justice for giving judgment,	one shilling.
And that the fees belonging to the register-general of this province shall be as followeth, viz.,	
For granting and making letters of administration, under the seal of the office, registering the same and taking bond,	
	thirteen shillings and six pence.
For making and granting probate of a will, with a copy of a will, under the seal of the office, registering the same and taking bond,	eighteen shillings.

For a copy of a will or copy of letters of administration,	
	four shillings and six pence.
For a citation,	three shillings.
For filing the inventory and certifying the time when it was brought into the office on the back of the bond, or if no bond giving the executors such certificate, one shilling.	
For a copy thereof, four shillings, if it exceed not one hundred and fifty pounds, but if it amounts to more,	six shillings.
For a search,	one shilling and six pence.
For <i>quietus</i> ,	four shillings and six pence.
For every <i>caveat</i> ,	one shilling and six pence.
For filing and registering a renunciation,	one shilling and six pence.
For a copy of an administrator's account,	nine shillings.
And that the fees belonging to the attorneys-at-law, within this province shall be as followeth, viz.,	
For all actions they shall undertake, whether for plaintiff or defendant,	twelve shillings.
For drawing a declaration in actions of debt, detinue, trespass, <i>assumpsit</i> , trover, etc.,	five shillings.
For drawing a declaration in actions of slander and waste,	six shillings.
For drawing a declaration of covenant,	nine shillings.
For every court he attends a cause, after the first court,	six shillings.
For giving oyer of a bond or other oyer,	one shilling and six pence.
For giving notice of executing a writ of inquiry, and attending it, and notice of trial, each,	[eighteen pence].
For drawing every plea, replication, demurrer and pleas subsequent and joinder in demurrer, each,	[three shillings].
And that the fees belonging to the justice's clerks shall be as followeth, viz.,	
For every warrant or <i>mittimus</i> ,	one shilling.
For every recognizance,	one shilling.
For every deposition,	one shilling.
For every certificate or pass,	one shilling.

And that the fees belonging to the constables within this province shall be as followeth, viz.,

For serving a warrant, one shilling.

For traveling charges, two pence per mile going and two pence per mile coming.

For every cause in court, if they attend the court, one shilling amongst them.

For serving every attachment, one shilling.

For serving an execution for a debt under forty shillings, one shilling.

And that the fees belonging to all juries and inquests within this province shall be as followeth, viz.,

For trying all actions upon issue joined, eight pence per man.

For every inquisition made upon writs of inquiry of damages, *elegit*, petition or upon any inquest of office or other inquiry, three shillings per day per man.

For every inquisition made by order of the coroner or other officer, upon the view of a dead body, two shillings and three pence per man.

And that every witness shall have for every day they spend in coming, going and attending to give evidence in any cause, after the rate of two shillings per diem.

And that the crier of every court shall have for every action called in court, nine pence.

And that the fees belonging to every surveyor of lands within this province shall be as followeth, viz.,

For every single hundred acres surveyed by him, or any lesser quantity, seven shillings and six pence, with accommodations.

For surveying any tract of land above one hundred acres; for the first hundred, seven shillings and six pence, and for every hundred acres above, three shillings and nine pence, with accommodations.

For a whole lot, with return and plat, seven shillings and six pence.

Which said fees respectively shall be paid upon their delivering up the draught or plat and return of the survey, signed

with the surveyor's own hand, to the owner or possessor of the said lands or lots, and not before.

For searching for a warrant or return and copy thereof, each, one shilling and six pence.

For traveling charges, three pence per mile.

For a search, if not found, nine pence.

And the surveyor shall, in fair books, record the warrant, and shall duly prove the draughts [and] then record them.

For recording the proprietary's warrant, making a return thereof after the survey into his secretary's office, recording the same, and for a draught,

six shillings and three pence.

Which fees as aforesaid are to be in full for all manner of fees that the surveyor or his deputies, by any means whatsoever, may hereafter pretend to claim or take for any thing or matter relating to the said office.

And that the fees belonging to each chain carrier shall be after the rate of three shillings per day, besides accommodations; and the owner of the land to find a marker.

And that the fees belonging to the Queen's collector shall be as followeth, *viz.*,

For entering every vessel, with permit to unload, eight shillings.

For a new register, eight shillings.

For a protection, four shillings.

For every permit, two shillings.

For every bill of store, three shillings.

For clearing every vessel, with permit to load, eight shillings.

For certificate for enumerated commodities or European goods, three shillings.

For return of a certificate, four shillings and six pence.

For endorsement on a register, if required, two shillings and six pence.

For a bill of health, if required, six shillings.

For a post entry, two shillings and six pence.

And that the comptroller shall have and receive for every ship or vessel cleared out for the sea, three shillings.

And that the fees belonging to the naval officer shall be as followeth, viz.,

For entering every vessel,	eight shillings.
For clearing every vessel,	eight shillings.
For every bond for enumerated commodities, three shillings.	
For signing a certificate for bond given for enumerated commodities,	one shilling and six pence.
For signing certificate to cancel bond given abroad for enumerated commodities,	three shillings.
For canceling plantation bond on return of certificate,	two shillings and six pence.
For signing protection or registering men, if required,	
	one shilling.

[Section II.] Provided always and be it enacted by the authority aforesaid, That for entering and clearing all ships or vessels owned by the inhabitants of this province, there shall be paid to the collector and naval officer no more than three-fourths of the fees above set down for entering and clearing vessels, respectively; anything herein contained to the contrary notwithstanding.

And that the governor shall receive and take:

For a let-pass, if required, to any vessel under sixty tons,	
	six shillings.
For the same to any vessel above sixty tons, if required,	
	eight shillings.
For registering any vessel and certifying the same, according as the law requires,	eight shillings.
For a bill of health or Mediterranean pass, when required,	
	six shillings.

And if any attorney-general, clerk of any of the said courts, or other person draw any indictment or information defective, they shall draw new bills or informations gratis or forfeit five pounds, with full costs to be recovered as is hereafter directed.

[Section III.] And be it further enacted by the authority aforesaid, That all and every the respective officers and attorneys-at-law whose fees are hereinbefore respectively ascertained, limited and appointed, shall and are hereby required

to make fair tables of their fees respectively, according to this act, and to publish and set up the same in manner following: The fees of the respective courts in the said courts during the continuance of the said courts from time to time. And the fees of other officers, in their respective offices, within three months after the publication hereof, where it shall be constantly exposed to view and inspection of all persons who have business in the said offices.

And if any attorney-at-law or officer hereinbefore mentioned shall neglect or delay to make and set up the tables of their fees as is hereinbefore limited and appointed by this act, or shall by color of any law, custom or usage of this province or Great Britain, take, directly or indirectly, any more, greater or other fees, than is hereinbefore appointed, for their doing, acting or performing any of the matters or things hereinbefore enumerated, or shall make demand of any fees, without giving the party of whom such fees shall be demanded a bill of the particulars, signed by him if demanded, or shall refuse upon demand to give the party a receipt or discharge under his hand for the fees, upon payment thereof, every such person or officer shall forfeit and pay for the first of every such offense the sum of ten pounds current money of this province; and for the second offense, the sum of twenty pounds money aforesaid, the one-half to the Queen for the support of this government, and the other half to him or them that shall sue for the same; which, with the penalties and forfeitures aforesaid, shall be recovered in any court of record within this province, by action of debt, bill, plaint or information, wherein no essoin, protection, wager of law, or more than one imparlance shall be allowed. And for the third and every other offense, be liable to be displaced or removed out of his office, any law, custom or usage to the contrary notwithstanding.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II. See the Act of Assembly passed May 28, 1715, Chapter 216.

CHAPTER CLXX.

AN ACT FOR THE ACKNOWLEDGING AND RECORDING OF DEEDS.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be an office of record, which shall be called and styled the enrolment office, and shall be kept in some convenient place in each county of this province; and the recorder or enroller, by himself or sufficient deputy, shall duly attend the service of the same, and at his own proper costs and charges shall provide rolls of parchment, or good large books of royal or other large paper, and well covered, wherein he shall record or enroll the deeds or conveyances hereafter mentioned, in a fair, legible hand, for which he shall have and receive for recording or enrolling and for copying or exemplifying every deed, conveyance or writing, three farthings for every line, and for every search one shilling and six pence, and for every acknowledging satisfaction in the margin of a mortgage recorded, two shillings and six pence, and no more; and for the seal he shall have and receive, for fixing the same to every exemplification, four shillings and six pence; and shall take and exact no more, under the penalty of five pounds for every offense, one-half thereof to the governor for and towards the support of government, and the other half to him or them that shall sue for the same. And that every deed of feoffment, bargain and sale, or other conveyance hereafter to be made and executed, for lands, tenements or hereditaments in this province (except leases for twenty-one years or under) shall be within six months after the date thereof acknowledged by the party or parties that grant the same, or be duly proved by two of the witnesses thereto, before one or more of the justices of the peace (the recorder or enroller, or his deputy, in any of the counties within

this province, being present) and be recorded in the said office for the city or county where such lands or tenements lie, and the justice or justices before whom such deed shall be so acknowledged or proved, shall under his or their hands and seals, certify the same, upon the back of such deed and the day and year when such acknowledgment or proof was made, and by whom; which deed, so acknowledged or proved, and recorded or enrolled at length in the said office, shall be valid and effectual in law. And every deed or conveyance (other than leases for twenty-one years or under) heretofore made for any lands, tenements or hereditaments in this province not yet acknowledged in court nor recorded, which shall, within five years after the twenty-fifth day of March, in the year of our Lord one thousand seven hundred and eleven, be acknowledged or proved and recorded as aforesaid, and also, all and every such deeds or conveyances as have been at any time since the twelfth day of January, in the year of our Lord one thousand seven hundred and five, acknowledged or proved, and recorded in the same manner as is directed by this act, shall take effect from the time of their signing and sealing. And shall be and are hereby declared and enacted to be good and available in law; and the justices before whom such acknowledgments or proofs are made, according to this act, shall have and receive of the grantee, for certifying the acknowledgment or proof of every deed, one shilling, and no more; and the recorder, if occasion be, is hereby required to go to the justice, and shall have four pence per mile, traveling charges, and one shilling for his fee, and shall exact and demand no more, under the penalty of forty shillings for every offense, one-half thereof to the governor, for the support of the government of this province, and the other half to him or them that will sue for the same in any court of this province, where no essoin, protection or wager of law shall be allowed.

[Section II.] And be it further enacted by the authority aforesaid, That all deeds and conveyances made and granted out of this province, and brought hither, the execution whereof being proved by the solemn affirmations of one or more of the

witnesses thereunto, before one or more of the justices of the peace of the proper county, and delivered to be recorded, or before any mayor or chief magistrate or officer of the cities, towns or places where such deeds or conveyances are or shall be made or executed, and accordingly certified under the common or public seal of the cities, towns or places where such deeds or conveyances are so proved, respectively; and the same deeds or conveyances being recorded in the aforesaid office, for the county where such lands lie, within six months next after the arrival of the ship, vessel or person that brought the same, shall be and are hereby declared to be as valid as if the said deeds or conveyances had been here made, acknowledged, proved and recorded, according to the form and time hereinbefore appointed.

Provided nevertheless, That if any person here lawfully empowered, shall, in pursuance of that power, make sale and assurance of any lands or hereditaments (to any person whatsoever) within this province, and the deeds thereof be duly proved, (or patent had) and recorded according to the true meaning of this act before any conveyance either from the proprietary of this province, or other owner of the same lands or hereditaments, or any part thereof, to any other person, be here proved and recorded, as aforesaid—the said deed or patent, so made, passed or recorded here, shall stand good and effectual in law to all intents and purposes whatsoever, and the other shall be void.

[Section III.] And be it further enacted by the authority aforesaid, That all deeds or conveyances made or to be made and proved or acknowledged and recorded, according to the true intent and meaning of this act, shall be of the same force and effect here, for the assurance of the said lands, tenements and hereditaments, and for docking and barring estates tail, as fines and recoveries at common law, or deeds of feoffment, with livery and seizin, or deeds enrolled in any of the Queen's courts of record at Westminster, are or shall be in the Kingdom of Great Britain, and the exemplification of all deeds so enrolled, being examined by the recorder, and certified accordingly under the seal of the proper office, which the keeper

thereof is hereby required to affix thereto, shall be and are hereby declared and enacted to be as valid and effectual in law as the original deeds themselves, and may be showed, pleaded and made use of accordingly, saving to all and every person or persons, bodies politic and corporate, their heirs and successors, executors and administrators, other than to the said feoffers and grantors, their heirs and successors all such rights, titles, estates, claims and interests as they or any of them have of, in or to the said lands, tenements and hereditaments, or any part thereof, at the time of such feoffment, or other conveyance aforesaid, sealed and delivered, so that they do pursue their said rights, titles, claims or interest by way of action or lawful entry, within seven years next after the date of such deeds or conveyances. And saving to all persons such action, right, title, interest and claim of, in or to the said lands, tenements or other hereditaments, as first shall grow, remain, descend or come to them, after the dates of the said deeds or conveyances, by force of any gift or grant, or by any other cause or matter had or made before the sealing and delivery of the said deeds, so that they take their action, or pursue their right according to law, within seven years next after such action, right, claim, title or interest to them accrued, descended or came; and that the said persons and their heirs may have their said action against the pernors of the profits of the said lands and hereditaments, at the time of the said action to be taken; and also saving the right and title of all persons who at the time of the sealing and delivery of the said deeds, or at the time the said action, right and title may accrue, descend or come, as aforesaid, shall be women covert and no parties to the said deed, or within age, or in prison, or beyond the seas, or not of whole or sound memory, so that they or their heirs take their said action or lawful entry, according to their right and title within three years next after they come and be at their full age, out of prison, within this province in person, or by their attorney or agent, unmarried and of whole memory, and pursue the same actions and entries, with effect, according to the laws of this province; and if they do not take their actions and entries, as is aforesaid, that they and every

of them, and their heirs, shall be concluded by the said feoffments, deeds and conveyances forever, in the like manner as they that may be parties or privies thereunto.

Provided always, That where any person or persons shall, by a deed duly executed, grant or convey his or their lands or tenements to any other person or persons who get the last deed or grant recorded or enrolled, if afterwards the first deed be recorded or enrolled within the time prescribed by this act, for recording such a deed, then the last or other deed, and the enrolment thereof, shall be, *ipso facto*, void, anything in this act contained to the contrary notwithstanding.

[Section IV.] And be it further enacted by the authority aforesaid, That no deed of mortgage, or defeasible deed in the nature of mortgages, shall be good or sufficient to convey or pass any freehold or inheritance, or to grant any estate therein for life or years, unless such deed be acknowledged, or proved, and enrolled or recorded, where such lands or estates lie, as before directed for other deeds.

[Section V.] And it is further enacted by the authority aforesaid, That any mortgagee of any real or personal estate within this province, having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage, shall, at the request of the mortgagor, enter satisfaction upon the margent of such mortgage recorded, or to be recorded in the said office of enrolment, which shall forever thereafter discharge, defeat and release the same, and shall likewise bar all actions brought, or to be brought, thereupon. And if such mortgagee, by himself or his attorney, shall not within three months after request and tender made, for his reasonable charges, repair to the said office, and there make such acknowledgment as aforesaid, he, she or they so refusing shall, for every such offense forfeit and pay unto the party or parties aggrieved, any sum not exceeding the mortgage money, to be recovered in any court of record within this province, by bill, plaint or information.

[Section VI.] And be it further enacted by the authority aforesaid, That the present master of the rolls, and every other master of the rolls succeeding him, that shall be ap-

pointed recorder or enroller for the whole province, shall by himself or sufficient deputies (for whom he shall be answerable) hold his office at Philadelphia, and in each of the other counties of this province, for recording deeds, and shall find one or more sufficient sureties with himself, to become bound to the governor, for the time being, in a bond of two hundred pounds, for the true and faithful executing of the said office, and for delivering up the records, and other writings, belonging to the said office, by him, his heirs, executors, or administrators, to his successors in the said office, safe, whole and undefaced; which said bond shall be filed in the secretary's office, and there safely kept, in order to be made use of for making satisfaction to the parties that shall be damnified or aggrieved as is or shall be directed by the laws of this province in such case. And no master of the rolls, recorder or enroller of deeds, whatsoever hereafter to be appointed by commission from the governor, shall enter upon or officiate in his office before he hath given such security as aforesaid, upon pain of forfeiting the sum of one hundred pounds, to be recovered as aforesaid, the one-half thereof shall go to the governor, for the use aforesaid, and the other half to him or them that shall sue for the same.

[Section VII.] Provided always, and be it further enacted and declared by the authority aforesaid, That nothing herein contained, or in the said obligation, shall bind or oblige, or be construed, adjudged, deemed or taken to oblige or bind the said recorder or enroller, his deputy or deputies, or any of them, to deliver up the said office records and writings, or any of them, in such condition as aforesaid, where the same, or any of them respectively shall happen to be destroyed, damnified or defaced by any casualty of fire, inundation, earthquake, enemies or thieves, anything herein, or in any other law, to the contrary notwithstanding.

And whereas many persons in this province finding their patents, deeds and writings recorded in the said office, to be safe and secure in the hands and custody of the officers, have neglected to take up the same for many years, to the dis-

advantage and disappointment of the officers; for prevention whereof for the future:

[Section VIII.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the master of the rolls, and office of enrolment, for the time being, his deputy and deputies, to have, receive and take for every patent, deed, or writing to be recorded in the said office or offices, that shall lie in his or their hands not paid for by the owner, above the space of one month next after the same is recorded, the sum of two pence per month for every month then following, so long as the same shall remain unpaid for as aforesaid; which said sum of two pence per month, together with the fees of the office, and offices aforesaid, the said officer, his deputy and deputies, shall recover in any court in this province, or before any inferior judicature or jurisdiction in the same for recovery of debts under forty shillings.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed May 28, 1715, Chapter 208.

CHAPTER CLXXI.

AN ACT DIRECTING AN AFFIRMATION TO SUCH WHO FOR CONSCIENCE SAKE CANNOT TAKE AN OATH.

Whereas William Penn, Esquire, Proprietary and Governor of this province together with the greatest part of the free-holders thereof were at the first settling of this colony and still continue to be such who for conscience' sake can neither take nor administer an oath, as also divers of those from a tender scruple of conscience cannot take the affirmation allowed by law to Quakers in Great Britain, and forasmuch as there is great danger of a failure of justice if so considerable a number of the inhabitants be made incapable of giving evidence; therefore, to the end that they may be the better enabled and qualified for such offices, places and stations as they may be required to serve in:

[Section I.] We humbly pray that it may be enacted and be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the free-men of the said Province in General Assembly met, and by the authority of the same, That when any such person who for conscience' sake cannot take an oath shall be called before any magistrate or proper officer to give evidence in any matter or case whatsoever, such magistrate or officer shall administer the affirmation as hereinafter directed to such person or persons in these words:

A. B., thou art called here to give thy evidence; dost thou protest solemnly and declare that the evidence thou shalt give be the truth, the whole truth, and nothing but the truth; and the affirmand shall answer yea or yes.

[Section II.] And be it further enacted by the authority aforesaid, That the said affirmation shall be adjudged and taken and is hereby declared to be of [as] full force and effect as if the same had been by oath and the same affirmation changing what should be changed shall sufficiently qualify any such aforesaid person or persons to serve in, execute and exercise any office, place or station in this province, any law, usage or custom to the contrary hereof in anywise notwithstanding.

Provided always, That all such who shall be hereafter commissionated by the governor to be magistrates or officers, as also all members of assembly, before they enter upon or act in their respective places, offices and trusts, shall subscribe the effect of the declaration and profession of faith according to the act of parliament made the first year of the reign of King William the Third, entitled "An act for exempting their majesties' subjects dissenting from the Church of England from the penalties of certain laws."

Provided always, That nothing in this act contained shall be construed or deemed to hinder any magistrate or proper officer from administering an oath to any person who doth not make scruple of conscience to take the same.

[Section III.] And be it further enacted by the authority

aforesaid, That if any person or persons taking such solemn affirmation as aforesaid shall be lawfully convicted willfully, falsely and corruptly to have affirmed or declared any matter or thing which if the same had been upon oath would by the law of Great Britain have amounted unto willful and corrupt perjury, such person shall incur the same penalties as by the laws and statutes of Great Britain are enacted against persons convicted of willful and corrupt perjury.

Passed February 28, 1710-11. Repealed by the Queen in Council, December 19, 1711, and February 20, 1713-14. See Appendix III, Sections I and II, and the Act of Assembly passed May 28, 1715, Chapter 204.

CHAPTER CLXXII.

AN ACT THAT NO PUBLIC HOUSE OR INN WITHIN THIS PROVINCE BE KEPT WITHOUT LICENSE.

For preventing of disorders and the mischiefs that may happen by multiplicity of public houses of entertainment:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons whatsoever within this province shall hereafter have or keep any public inn, tavern, alehouse, tipling-house or dramshop, victualing house or public house of entertainment in any county of this province, or in the city of Philadelphia, unless such person or persons shall first be recommended by the justices in the respective county courts, and the said city, in their quarter-sessions or court of record for the said

counties and city respectively, to the lieutenant-governor for the time being, for his license for so doing, under the penalty of five pounds. And that no person, so licensed as aforesaid, shall knowingly suffer any disorder, as drunkenness or unlawful games whatsoever, in such his, her or their houses, under the penalty of forty shillings for the first offense; and for the second offense, to be suppressed by the said justices of the said respective courts, and that no such innkeeper, taverner or other person as aforesaid shall presume to continue such public house of entertainment of his own accord after such suppression, or the expiration of his license, without new license as aforesaid, under the penalty of five pounds, one-half thereof to the governor for the time being, towards the support of this government, and the other half to the use of the poor of the respective township or city where the offense shall be committed.

Provided always, That nothing herein contained shall extend to debar or hinder the magistrates of the city of Philadelphia to claim, have and enjoy all such fines, penalties and forfeitures, as shall be due or forfeited in the quarter-sessions or court of record, to be held for the said city, which are granted them by charter.

[Section II.] And be it further enacted by the authority aforesaid, That all such innkeepers as aforesaid, shall keep good entertainment for man and horse, under the penalty of forfeiting forty shillings for the use aforesaid.

[Section III.] And be it further enacted by the authority aforesaid, That the governor shall have and receive, for every license to be granted by him pursuant to this act, to any person, to sell wine and other liquors in the city of Philadelphia, three pounds; and to sell all other liquors in the said city, except wine, the sum of forty shillings. And for every license to any person to sell wine and other liquors in the towns of New Bristol, Frankford, Germantown, Darby, Chester and Chichester, the sum of forty shillings. And for every license to sell wine and other liquors in any other part of this province, the sum of thirty shillings, and no more. And the secretary

shall have, for drawing such license, with the seal, six shillings, and no more.

Passed February 28, 1710-11. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix II, Section II, and the Acts of Assembly passed May 31, 1718, Chapter 235; August 26, 1721, Chapter 244; May 12, 1722, Chapter 253; March 5, 1725-26, Chapter 293; February 9, 1750-51, Chapter 388; March 17, 1757, Chapter 420; April 29, 1758, Chapter 433; April 21, 1759, Chapter 441; February 18, 1777, Chapter 743; March 15, 1779, Chapter 825; March 30, 1779, Chapter 833; March 17, 1780, Chapter 897; March 19, 1783, Chapter 1016; September 25, 1786, Chapter 1248; April 22, 1794, Chapters 1758 and 1763; March 28, 1808, P. L. 169; March 30, 1811, P. L. 150; March 8, 1815, P. L. 91; March 25, 1817, P. L. 298; January 27, 1819, P. L. 39; January 16, 1823, P. L. 10; April 12, 1825, P. L. 247; and April 10, 1826, P. L. 381. Partly repealed by the Act of Assembly passed April 7, 1830, P. L. 352. Supplied by the Act of Assembly passed March 11, 1834, P. L. 117.

CHAPTER CLXXIII.

AN ACT OF PRIVILEGES TO A FREEMAN.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no freeman of this province shall be taken or imprisoned or disseized of his freehold or liberties, or be outlawed or exiled, or any other ways hurt, damned or destroyed, nor be tried or condemned, but by the lawful judgment of his twelve equals, or by the laws of this province.

Provided, That nothing herein contained shall extend to obstruct the power of the court of admiralty concerning any matter properly cognizable in the said court.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed March 30, 1722-23, Chapter 266.

CHAPTER CLXXIV.

AN ACT AGAINST RIOTOUS SPORTS, PLAYS AND GAMES.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no manner of person or persons of what degree, quality or condition soever he or they be, from and after the publication of this act, by himself, factor, deputy, servant, or other person, shall for his or their gain, lucre or living, keep, have, hold, occupy, exercise or maintain (contrary to the statute made in the thirty-third year of the reign of King Henry the Eighth, entitled "A bill for maintaining of artillery, and the debarring unlawful games,")¹ any common house, alley or place of bowling, quoiting, closh-kayles, half-bowls, tennis, dicing, tables or carding, or any other manner of game prohibited by the laws of Great Britain, now invented or made, or any such other game hereafter to be invented, found, had or made, upon pain to forfeit and pay for every day keeping, having, maintaining or suffering any such game to be had, kept, executed, played or maintained within any such house, garden, alley or other place, contrary to the form and effect of this act, the sum of forty shillings; and also, every person using and haunting any of the said houses and plays, and there playing, shall forfeit for every so doing the sum of six shillings and eight pence.

[Section II.] Be it further enacted by the authority aforesaid, That it shall be lawful for all and every the justices of the peace in every county of this province, mayors, sheriffs, bailiffs and other head officers within every city, town or borough within this province, from time to time (as well within liberties as without) as need and case shall require, to come, enter and

¹ 2 Ruffhead, 307.

resort unto all and every houses, places and alleys where such games shall be suspected to be holden, exercised or occupied contrary to the form of this act, and as well the keepers of the same as also the persons there haunting, resorting and playing, to take, arrest and imprison, and them so taken and arrested, to keep in prison until such time as the keepers and maintainers of the said plays and games have found sureties to the Queen's use, to the support of this government, to be bound by recognizance, or otherwise, no longer to use, keep or occupy any such house, play, game, alley or place. And also, that the persons there so found be in like case bound by themselves, or else with sureties by the discretion of the justices, mayors, sheriffs, bailiffs or other head officers, no more to play, haunt or exercise, from thenceforth in, at or to any of the said places or at any of the said games.

[Section III.] Be it further enacted by the authority aforesaid, That no manner of artificer or craftsman, or any handi-craft or occupation, husbandman, apprentice, laborer, servant at husbandry, journeyman, or servant of artificer, mariners, fishermen, watermen, or any serving man, shall contrary to the said statute, from and after the publication hereof, play at the tables, tennis, dice, cards, bowles, closh, loggating, or any other game prohibited, as abovesaid, under the pain of twenty shillings, to be forfeit for every time. And that all justices of [the] peace, mayors, bailiffs, sheriffs, and all other head officers, and every of them, finding or knowing any person or persons using or exercising any such games, contrary to this act, shall have full power and authority to commit every such offender to ward, there to remain without bail or mainprise until such time that they, so offending, be bound by obligation, for the use of the Queen, for the support of this government, as aforesaid, in such sums of money as by the discretion of the said justices, mayors, bailiffs, or other head officers shall be thought reasonable, that they or any of them shall not from thenceforth use any such game.

Provided always, That all informations, plaints, actions or suits that shall be taken or sued upon any part of this act, shall

be commenced within the year after the offense committed and done, or otherwise no advantage or suit thereof to be taken.

And to the intent that every person may have knowledge of this act and avoid the danger and penalties of the same:

[Section IV.] Be it enacted by the authority aforesaid, That the justices of the peace in each county of this province shall at every of the courts of quarter-sessions or otherwise, as often as the court shall think fit, cause this act to be openly read therein.

[Section V.] Be it further enacted by the authority aforesaid, That from and after the publication of this act, no person of what age, sex, degree or quality soever, shall contrary to the statute of the ninth and tenth years of the reign of King William the Third,¹ chapter the second, make, sell or utter or expose to sale any squibs, rockets, serpents or other fireworks, or any cases, moulds or other implements for the making such fireworks, or permit any such fireworks to be thrown or fired out of or in their houses or lodgings, or any part or place thereto adjoining, or into any public street, highway, road or passage, nor throw or fire, or to be aiding in the throwing or firing of any such fireworks, in or into any public street, house, shop, river, highway, road or passage, but every such offense shall be adjudged a common nuisance.

[Section VI.] And be it further enacted by the authority aforesaid, That from and after the publication of this act, any person, as aforesaid, of what age, sex, degree or quality soever who shall make, give, sell or utter, or expose to sale any squibs, rockets, serpents, or other fireworks, or any cases, moulds, or other implements for making thereof, and be convicted thereof before one or more justices of the peace of the city, county or division, or chief-magistrate of the place where such offense shall be committed, by confession of the party or affirmation or oath of two witnesses, shall for every such offense forfeit any sum under forty shillings. And any person whatsoever, who after the publication of this act, shall permit or suffer any such fireworks to be thrown, fired from, out of or in their houses, shops, dwellings, [or] lodgings, into any public street,

¹ 3 Ruffhead, 693.

highway, road or passage, or any other house or place whatsoever and shall be convicted thereof as aforesaid, shall for every such offense forfeit twenty shillings; the said several forfeitures to be levied by distress and sale of goods and chattels of the offender, by warrant of the said justices or chief-magistrates, one-half to the use of the poor of the city, county or division where any such offense shall be committed, and the other to the prosecutor.

[Section VII.] And be it further enacted by the authority aforesaid, That any person as aforesaid, who shall throw, or fire or assist in the throwing or firing any such fireworks, in or into any public street, house, shop, river, highway, road or passage, and be thereof convicted, as aforesaid, shall for every such offense, forfeit twenty shillings to the uses aforesaid, and pay the same immediately to the said justices or chief-magistrate, or be sent to the House of Correction, there to be kept to hard labor, for any time not exceeding one month, unless such offender sooner pay such forfeiture.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed August 26, 1721, Chapter 245, and February 9, 1750-51, Chapter 388.

CHAPTER CLXXV.

AN ACT TO PREVENT DISPUTES WHICH MAY HEREAFTER ARISE ABOUT THE DATES OF CONVEYANCES AND OTHER INSTRUMENTS AND WRITINGS.

Whereas the generality of the inhabitants of this province do conscientiously scruple to call the names of the months as they are usually called; but the month which others call March they call the First month, and the month, commonly called April, the Second month, and so of the rest of the months of the year; and the dates of many deeds, conveyances and other writings, as well as the times of payment of money, are ac-

cordingly mentioned and expressed. Now, forasmuch as disputes and controversies may hereafter arise concerning the premises:

[Section I.] Be it therefore enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all deeds, conveyances, mortgages, letters of attorney, or powers of agency, commissions, bonds, bills, charter-parties, leases, releases, contracts, articles, receipts, and all other instruments and writings whatsoever, wherein the names of the months are called First, Second, Third, Fourth, instead of March, April, May, June, and so of the rest, always accounting the month called March to be the first month of the year, shall and are hereby enacted and declared to be as good and available, and may be pleaded and shall be deemed, adjudged and taken in all courts of judicature, and elsewhere within this province, to be as valid and effectual in law, to all intents, constructions and purposes, as if the months in such writings had been set down and expressed by their usual names, any law, custom or usage to the contrary thereof in anywise notwithstanding.

Passed February 28, 1710-11. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II. Repealed by the Act of Assembly passed March 11, 1752, Chapter 395.

CHAPTER CLXXVI.

AN ACT FOR PRIORITY OF PAYMENT OF DEBTS TO THE INHABITANTS OF THIS PROVINCE.

Whereas many persons bringing into this province considerable cargoes of goods and visible estates do thereby acquire great and large credits from the inhabitants, and upon the death of such persons it often happens that such cargoes or

effects are claimed by their employers, or others beyond the seas, whereby it falls out that the inhabitants who furnished the said persons with goods, suitable for returns, or otherwise gave them credit, are liable to be defrauded or deprived of their just debts; for prevention whereof, as well as to give remedy in the premises, and in such like cases:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all debts which are or shall be contracted within this province, shall be preferred before all debts of the same nature and dignity which are or shall be contracted out of this province; and no debt which is or shall be due by judgment or recognizance, recovered or acknowledged, or by bond or specialty made out of this province, for debts not contracted in this province, shall be preferred to debts of the same nature which are or shall be contracted within the said province. And that no action or suit now or hereafter commenced, for any debt contracted, or *assumpsit* made within this province, shall be stayed upon the allegation or pretense of a foreign debt of a higher nature, unless notice be first given by action entered for such foreign debt, in some court of record within this province.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II.

CHAPTER CLXXVII.

AN ACT FOR THE BETTER IMPROVING A GOOD CORRESPONDENCE WITH THE INDIANS.

Whereas it is of great importance to the peace and welfare of the inhabitants of all these the Queen's dominions that a friendship be cultivated between her subjects and the native Indians, the first possessors of these lands, and that they may not only be strengthened and confirmed in the interest of the

Crown of England and alienated from that of our enemies, but also be induced as much as may be by a kind and obliging treatment to embrace the Christian religion:

[Section I.] Be it therefore enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief, of the Province of Pennsylvania, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That if any person shall kill, wound, beat or in any manner abuse any Indian or Indians inhabiting in this province or that being at peace with us comes from any of the neighboring provinces of colonies upon lawful business, such person shall be subject to the same penalties and punishment as he or they should or ought to be if the same had been done to a natural-born subject of Great Britain; and if any person shall by such evidence, either of Christians or Indians, as may render it sufficiently credible to the court and jury, be convicted of spreading any false news or reports that may tend to alienate the minds of the Indians or any of them from this government or create jealousies or fears in them concerning it, every such person being duly convicted thereof shall forfeit any sum not exceeding twenty pounds, one-half thereof to the use of this government and the other half to the informer or him or them that shall sue for the same, and suffer imprisonment at the court's discretion not exceeding six months, and upon their discharge shall give security for their good behavior.

[Section II.] And be it further enacted, That all necessary treaties shall be held and made with the Indians as aforesaid and their nations, and messages to them ordered by the governor and council for the time being at the public charge of this province in any sum not exceeding fifty pounds per annum, to be defrayed by an order of government and council to the provincial treasurer for the time being, who is hereby required forthwith to pay the same out of the first money that comes to his hands, a just account of which treaties and messages with the charges thereof shall be laid before the assembly of this province as often as they shall see cause to call for the same.

And whereas great inconveniences to this government may happen by suffering all persons without distinction to traffic with or reside amongst the Indians:

[Section III.] Be it enacted by the authority aforesaid, That after the twenty-fifth day of March, one thousand seven hundred and eleven, no person whatsoever shall go abroad into the woods or from their own plantation except to an English market town or place to trade with any Indians, unless to buy corn, venison or any such like provision or skins for necessary clothing of their families, without a license first obtained for their so doing from the governor by order of governor and council to be continued for one whole year and no more, upon penalty of forfeiting all the goods carried out or brought home by them and three months' imprisonment, one-half of the said goods to the informer and the other half to the support of the government.

Provided always, That no natural subject of the Crown of Great Britain or naturalized in Great Britain or this government shall be denied such license as aforesaid upon giving good security that they will honestly and truly trade with the Indians and observe such rules and orders as the governor and council shall from time to time think fit to make for the better regulating the Indian trade, and shall pay for such license the sums of three pounds.

Provided also, That such Indian trader may sell or dispose of their [sic] skins, furs and commodities bought of the Indians to any person or persons within this government, but shall not carry any such commodities out of the same for sale thereof.

And whereas it is too evident both by practice and complaint of the Indians, that they are much impoverished and abused by the forestalling traders who frequently go far up into the country to meet the Indians upon their return from hunting, where they purchase their furs and skins with rum at under rates to the great injury of them and their families:

[Section IV.] Be it therefore enacted, That no persons shall trade with the Indians but in the respective towns or places of abode where they reside, upon the forfeiture of all such goods, one-half to the proprietary and governor for the support of gov-

ernment and the other half to him that shall sue for the same, and further that this act shall be and continue in force for the term of three years and no longer.

Passed February 28, 1710-11. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II. Expired. See the Act of Assembly passed May 28, 1715, Chapter 210.

CHAPTER CLXXVIII.

AN ACT FOR REGULATING OF PARTY WALLS AND BUILDINGS IN PHILADELPHIA.

Whereas there are divers inconveniences, irregularities and controversies prejudicial to many of the inhabitants of Philadelphia, about party walls, and for want of due care in laying the foundations of buildings regular in the said city; for the preventing and remedying whereof:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That no person or persons within the city of Philadelphia, builder or builders shall hereafter lay the foundation of any building, or cause [the same] to be laid, before he or they have the advice and concurrence of the surveyors or regulators which the mayor, aldermen and commonalty of the said city are hereby empowered, from time to time, to nominate and choose two or more discreet persons, understanding the art of building, and shall qualify them according to law, for surveyors or regulators in the same, who shall take care the foundations be set out and laid regular, and that party walls be equally set, one-half upon one man's ground and the other half upon the other man's ground, and the first builder to be re-imbursted by him that builds next for one moiety of the charge of the said wall, or so much thereof as he shall use, before the second building shall be begun.

[Section II.] And be it further enacted by the authority aforesaid, That for ending and deciding all differences and controversies which shall or may arise about party walls already built, or to be built in the said city, upon complaint made to any one alderman, he shall forthwith send for the regulators aforesaid, who shall go upon the spot, view the premises, measure the building, and compute the value thereof, and then by an impartial judgment, shall mediate an agreement between the parties differing; but if their endeavors prove ineffectual, the party grieved may appeal to the mayor and court of aldermen, who shall send for the other person or parties concerned, and after a full hearing of both sides, may affirm or reverse the same. And if after such sentence given either person or party shall refuse compliance therewith, then and in such case the aggrieved party or person may sue for and recover, in any court of record in this province, such sum so allowed, or damages awarded by the mayor and court of aldermen, the same to appear by transcript from the record of the said court, which shall be definitive in all such cases, any law, usage or custom to the contrary in anywise notwithstanding.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed February 24, 1720-21, Chapter 242.

CHAPTER CLXXIX.

AN ACT EMPOWERING COMMISSIONERS TO COMPEL THE COLLECTING OF ALL ARREARAGES OF FORMER TAXES.

Whereas divers Acts of Assembly have been made in this Province whereby considerable sums have been paid; but great complaint being made that part thereof either remains ungathered or is detained by the collectors or receivers, whereby part of the public debts still remain unpaid and they that paid their levies look upon it an oppression to have more laid upon them, unless those who are in arrears be likewise obliged to pay their said arrears, which said acts were made at the Assemblies

and under the respective titles hereafter particularly set down, viz.: The first of them was made at an Assembly held the tenth day of the Third month, one thousand six hundred and ninety-nine, entitled "An Act for raising one penny per pound and six shillings per head for the support of the government and payment of debts and defraying the necessary charges thereof." The second is entitled "An Act for raising one penny per pound and six shillings per head for the support of the government, and payment of debts and defraying the necessary charges thereof,"¹ made at Newcastle in the year one thousand seven hundred, and confirmed at Philadelphia by the General Assembly in the year one thousand seven hundred and one. The third is entitled "An Act for raising of a supply of two pence halfpenny per pound and ten shillings per head and [sic] also for granting an impost and laying an excise on sundry liquors and negroes imported into this province, for the support of government and defraying the necessary public charges in the administration thereof."² Now to the end that the Governor and this whole province may rightly understand where to place those neglects and be truly informed whether the moneys paid as aforesaid to the receivers have been applied to the uses intended:

[Section I.] Be it enacted by the honorable Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under the honorable William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, etc., and by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That in each respective county of this province the persons hereafter named shall be commissioners for putting this act in execution: (That is to say) for the county and city of Philadelphia, Richard Hill, Isaac Norris, Thomas Jones and Samuel Cart; for the county of Bucks, Jeremiah Langhorne, Thomas Stevenson and William Biles; and for the county of Chester, Nathaniel Newlin, Richard Webb and Isaac Taylor, who are hereby empowered and required to meet to

¹ Passed November 27, 1700, Chapter 86.

² Passed January 12, 1705-6, Chapter 164.

gether on the thirteenth day of the month called March, one thousand seven hundred and ten, at the place where the respective courts in the several counties are usually held, and at such other times and places as the said commissioners or any two of them respectively shall thereafter agree upon and are hereby invested with full power and authority to call before them or any two of them in the respective counties all collectors and receivers and all other officers and persons whatsoever who have been employed in the assessing, levying and gathering the rates and assessments aforementioned, and to cause them and every of them to make and give true and perfect accounts of all and every the aforesaid rates and assessments: and if any of the collectors or other officers shall neglect or refuse to comply with the premises, then it shall and may be lawful to and for the said commissioners or any two of them respectively by warrant under their hands and seals to commit such person or persons so refusing or neglecting to the common goal there to remain in safe custody without bail or mainprize until he or they shall comply to make such reasonable satisfaction as by the said several recited acts of Assembly ought at any time hereafter to have been done, notwithstanding the times in the said acts respectively limited be elapsed.

[Section II.] And be it further enacted by the authority aforesaid, That the said commissioners or any two of them as aforesaid shall have full power and authority in case of any neglect or refusal as aforesaid, or in case of the death or absence of any of the aforesaid collectors or other officers, from time to time to appoint others in the stead of such as shall refuse or neglect and in the stead of such who are or shall be removed by death or otherwise, and so *loties quoties* until all and every part and parcel of all the aforesaid rates and assessments and the arrearages thereof shall be wholly collected and gathered: and if any of the persons rated and assessed by virtue of any of the before recited acts have not heretofore paid the said assessments and shall still refuse to pay the same, then and in all such cases it shall and may be lawful to and for the said collectors respectively appointed as aforesaid (demand by him or them being

first made) to make distress and sale of such persons, goods and chattels and to return the overplus (if any be) after reasonable charges deducted.

[Section III.] And be it further enacted by the authority aforesaid, That the said collectors shall be allowed for collecting, gathering and paying the same to the treasurer hereafter named so much for every pound by them respectively collected as in and by the said several recited acts is directed and allowed, or so much as any two of the said commissioners shall think fit to allow; and all and every the said respective collectors are hereby required to pay all and every the sums by them to be respectively collected to such persons in the respective counties as the said commissioners shall appoint who shall remit the same to the provincial treasurer and render accounts thereof to the commissioners aforesaid, the said collectors deducting out of the said sums what shall be allowed them for their trouble in collecting the same: and the respective treasurers for what they shall remit respectively shall have six pence per pound; and the provincial treasurer shall have for paying and receiving the same twelve pence per pound; and the aforesaid commissioners shall be allowed out of the said moneys for every day that they shall be about the premises the sum of four shillings each attending and no more, any law, usage or custom to the contrary in anywise notwithstanding.

Provided always, That such collectors or receivers as have accounted with the respective treasurers of the aforesaid former rates or assessments for any sum or sums of money that were by them received and paid by virtue of [and] according to the direction of the said acts, and have their discharges for the same from such treasurer or can otherwise prove by one or more witnesses that he had paid the same according to the direction of the said acts, shall not be accountable for any of the sums so paid or accounted for as aforesaid, any law, usage or custom to the contrary in anywise notwithstanding.

[Section IV.] And be it further enacted by the authority aforesaid, That in case of refusal or denial of any of the collectors by them respectively appointed as aforesaid to act in the premises, then and in such case the said commissioners or any

two of them shall have full power and authority to fine such collector or collectors so denying or refusing to do his or their duty in the premises, in any sum not exceeding five pounds, to the use of the government, to be recovered by bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed nor more than one imparlance.

[Section V.] And be it further enacted by the authority aforesaid, That the said commissioners or some or one of them out of each respective county of this province shall, on or before the third day of the Seventh month next ensuing the publication of this act, meet at Philadelphia and adjust and settle the accounts of all the arrears of the assessments or rates aforesaid respectively with the treasurer of the said province; and further that this act shall be and continue in full force for the space of one year from the publication of the same and no longer, any law, ususage or custom to the contrary in anywise notwithstanding.

Passed February 28, 1710-11. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed March 27, 1712-13, Chapter 195; May 28, 1715, Chapter 215, and October 29, 1715, Chapter 219.

CHAPTER CLXXX.

AN ACT FOR RAISING A SUPPLY OF TWO PENCE PER POUND AND EIGHT SHILLINGS PER HEAD.

We, the representatives of the freemen of the Province of Pennsylvania in General Assembly met, being sensible of the necessity this province lies under to raise such a supply as may in some measure answer the public exigencies of the government, do earnestly desire that it may be enacted:

[Section I.] And be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, Proprietary and Governor-in-Chief of the said province, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by

the authority of the same, That there shall be levied and raised upon all estates real and personal within this province of all and every person and persons (the estate of the proprietary and his lieutenant-governor only excepted) the sum of two pence for every pound clear value of the said estates to be paid by the owners or possessors thereof, and that every single person or freeman who at the time of the assessment shall be of the age of twenty-one years and hath been out of his apprenticeship or servitude for the space of six months and is not worth in land, goods or chattels fifty pounds, shall pay the sum of eight shillings, and that all and every man-servant who at the time of the execution of this act shall receive wages for his or their service shall pay the like sum of eight shillings, all which said several sums so to be raised as aforesaid shall be assessed and levied as by this act is directed, and paid for the uses hereinafter mentioned and expressed.

[Section II.] And be it further enacted by the authority aforesaid, That the persons hereinafter named shall be commissioners for the effectual putting this act in execution in each respective county: (That is to say) for Philadelphia city and county, Edward Farmer, Rowland Ellis, Thomas Masters and Nathan Stanbury; for Bucks county, Joseph Kirkbride, Thomas Stevenson, Thomas Watson and John Rowland; for Chester county, Jasper Yeates, Caleb Pusey, Nicholas Pile and Henry Peirce, or any two of them, in each respective county shall on the tenth day of the First month called March next after publication hereof meet together and order the respective sheriffs of each county to summon the elected assessors to meet them at the place where the courts are usually held on the twenty-sixth day of the said month: and that the said commissioners do at the same time issue forth their warrants, drawn by the clerk, and directed to the constables of each township, requiring them to bring to the said commissioners and assessors on the said twenty-sixth day the names and surnames in writing of every inhabitant, together with all freemen, inmates, hired servants and all other persons residing therein and ratable by this act, together with what lands and tenements they respectively hold in such townships, and how much of the said land is sowed with

corn, also how many bound servants and negroes and their ages, with what live stock of cattle, horses and sheep they possess; which constables shall have paid them by the sub-treasurers hereinafter mentioned, in the town of Philadelphia one penny and in the respective counties three pence per pound, for their so doing; and the said commissioners or any two of them together with the said assessors or any four of them shall meet on the aforesaid twenty-sixth day and receive the aforesaid returns from the said constables, and shall then and thereby by all lawful means inform themselves of the clear value of all estates in their respective counties and shall duly, equally and impartially assess themselves and all others who are ratable by this act at the rate of two pence per pound and eight shillings per head as aforesaid, and shall also then nominate and appoint the constables or some other persons for each township within the limits of the respective counties, as they may see needful, to collect the said assessment, and shall also then order the clerk to draw fair duplicates of each of the said townships' assessment and send to each of the said collectors one for their respective districts, signed by the commissioners and assessors aforesaid before or on the fifth day of the Second month, called April next, with a warrant annexed signed by the same commissioners empowering and requiring them respectively to collect and receive from the persons assessed in such aforesaid duplicates the sum therein mentioned in ready money: and the aforesaid collectors at their first going to demand such assessment shall acquaint all concerned therein of the day of appeal which shall be appointed by the said commissioners and assessors to be on the fifteenth day of the said Second month; and the said commissioners and assessors shall on the aforesaid twenty-sixth day of the First month nominate and appoint one substantial freeholder in the respective counties of Chester and Bucks to be sub-treasurers and Samuel Carpenter for the county of Philadelphia to whom the said collectors shall once in every month at least carry in and pay such sums of money as shall from time to time come to their hands, so that the whole sums of money they are respectively charged with by such warrants and dupli-

cates shall be fully carried in and paid on or before the twentieth day of the Fourth month next, retaining only six pence for the city of Philadelphia and in the counties nine pence per pound, for their collecting and paying, which treasurer's receipt shall be a sufficient discharge to such collectors for the whole or so much of the said assessment as shall then be paid to him, and that the said treasurer shall have in writing from the clerk within ten days after the assessment is made up by the commissioners and assessors aforesaid an account of the sums total which every respective collector shall be charged with pursuant to this act, and the provincial treasurer hereinafter named shall have from the said clerk, within fifteen days after laying of the assessment, a particular account of what each and every person is assessed in each of the counties respectively; and the said sub-treasurers shall once a month at least render a just account of and bring in and pay unto Samuel Carpenter, merchant in Philadelphia, who is hereby appointed the provincial treasurer, all such sums of money as they shall have then received from the said collectors until the whole be fully completed, except four pence for every pound which he is hereby empowered to retain for his receiving and paying the said assessments, and except six pence for every pound which he is hereby required to pay to the said commissioners and assessors to be equally divided between them for their labor and care in the premises, and except fifty shillings to the clerk of Philadelphia, forty shillings to the clerk of Chester county, and thirty-five shillings to the clerk of Bucks, which sums the said treasurer of each county are hereby required to pay them respectively for their whole trouble of writing and delivering to the parties concerned all such warrants and duplicates as aforesaid, which clerks are hereby required duly to deliver them accordingly. But in case of the said treasurer's death or removal, then such payment to be made to such person as shall be appointed by the Assembly for the time being. But if no Assembly be sitting, then to such persons as the governor and council shall appoint to supply that place till the next meeting of the Assembly: which provincial treasurer, as also the sub-treasurers, shall give sufficient security, the provincial treas-

urer to the governor, and the sub-treasurers to the said commissioners of each county or any two of them, for the due performance of their charge and trust, if required.

[Section III.] And be it further enacted by the authority aforesaid, That every of the said collectors so to be appointed as aforesaid shall pay the whole and every of the several sums of money assessed and mentioned in the said duplicates for their respective districts, unto the respective sub-treasurers or to Samuel Carpenter, aforesaid, on or before the twenty-fifth day of the Fourth month called June next, although he hath then neglected to collect or levy the same pursuant to the power hereby given him, and if any such collector shall refuse or neglect to pay the several sums of money assessed in such duplicates or any part thereof unto the said sub-treasurers or to the said Samuel Carpenter, within the time above limited, every such collector, upon complaint and proof made thereof by any of the said treasurers before any one or more of the said commissioners, shall be and is hereby fined in the sum of five pounds, and upon such conviction any one or more of the said commissioners, shall be and is hereby fined in the sum of five pounds, and upon such conviction any one or more of the said commissioners are hereby empowered and required to issue a warrant under his or their hands and seals, directed to the respective sheriff requiring him forthwith to levy the said fine together with the whole and every of the several sums of money assessed and mentioned in the said duplicates or so much thereof as shall remain unpaid to the said treasurers respectively, by distress and sale of such collector's goods and chattels. And if goods or chattels of such collector sufficient to satisfy the said fine and sums of money so unpaid, together with reasonable charges of distress and sale of the same, cannot be found, then to take the body of such collector and him safely keep in prison until he shall satisfy the same. And every sheriff to whom any such warrant shall be directed is hereby required and commanded to execute the same according to the tenor thereof. And every respective warrant issued in pursuance of this act empowering to make distress or take the body of any person shall extend

and be in force against any person fined or assessed as aforesaid, wheresoever found in any part of this province, and upon such distress and sale of goods aforesaid, the overplus, if any be, shall be returned to the owners, all necessary charges being first deducted. And such collector so distrained on or imprisoned, respectively, in order to reimburse himself shall by virtue of this act, without any further or other warrant, have power to collect and distrain in manner aforesaid to his own use from any person or persons for the whole or so much as shall remain unpaid of such person's assessment as shall have refused or neglected to pay the same within the time limited by this act, it being first by such collectors duly demanded as aforesaid. And the sheriff shall deliver to the respective sub-treasurer all such sums as by virtue of this act he shall be obliged to receive, demand or distrain from any such refusing or negligent collector within twenty days after the receipt of such aforesaid warrant to him directed. And the said treasurer's receipt shall be a sufficient discharge to any such sheriff, and if such sheriff shall not pay the said treasurer respectively all such fines and sums to be by him demanded, received or distrained for as aforesaid, upon complaint made by the said treasurer to the governor such sheriff shall be fined by the governor and council in the sum of ten pounds, to be levied by such officer or officers as the governor and council shall think fit to order and appoint, to be levied by distress and sale of goods in manner aforesaid, together with the sums which such sheriff shall be by the said commissioners warrants empowered and required to demand, receive and distrain for; all which said sums shall be paid by such officers into the hands of the said provincial treasurer within twenty days after he hath received the said order from the governor for executing the same.

Provided always, That if upon such rating or assessment made as aforesaid, any person shall find him or herself aggrieved or overrated, such persons may apply to the aforesaid commissioners and assessors on the day by them to be appointed for that purpose as aforesaid. And to the end all persons concerned may know what their particular assessment amounts to, the respective collectors shall, at least three days

before the day of appeal appointed as aforesaid, acquaint every person assessed in their respective limits or townships what their respective assessments amount to, making demand of the same as aforesaid, as also acquaint them of the said day when the commissioners and assessors by this act are to meet to hear such complaints; and the said commissioners and assessors are hereby required to meet accordingly on the fifteenth day of the Second month as aforesaid, and strictly examine such persons upon their affirmation or proof of others, and are also hereby empowered to diminish or add to such persons' rate or assessment as they shall think just and reasonable.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall refuse to pay the several sums or proportions appointed by this act for such person to pay upon demand made by the collectors of the place, according to the precept or estreat of him delivered by the aforesaid commissioners and assessors, it shall and may be lawful to and for such officer or collector, who are hereby thereunto authorized and required for the non-payment thereof, without any further or other warrant, to distrain the person or persons so refusing by his or their goods or chattels and make sale thereof, returning to the owner the overplus, if any be, all necessary charges being first deducted; and if no visible estate can be found to make distress upon, then the person assessed shall be taken in execution and remain prisoner until he shall answer the same, together with such other sums as such person is assessed by virtue of this act in any other county.

[Section V.] And be it further enacted, That all freemen not being householders nor having a certain place of abode, and all the said hired servants shall be taxed at the place where they reside at the time of the constables taking the names as aforesaid; and that every householder shall at the request of the said constables of the respective townships, wards or places give an account of the names, qualifications and estates of such persons as shall sojourn, lodge or dwell in their respective houses under the penalty of forty shillings, to be levied, charged and paid in manner aforesaid; and if any such freeman or servant shall not be found at such place of residence nor within the same town-

ship where their names shall be taken as aforesaid at the time when such respective collectors shall come to receive such householder's assessment, then, unless such freeman or servant hath by himself or by his friend paid, or unless such householder, master or employer do then pay the same to such collectors, which, if he hath effects of the said freeman's or servant's in his hands, he is hereby authorized and required to pay, such collectors are hereby obliged forthwith to give notice thereof to any [one] of the said commissioners, who is hereby required to issue forth his warrant directed to such person as he may think most convenient to take such freeman or hired servant anywhere in this province and bring him before any one of the said commissioners; and if he do not then pay the said assessment with all necessary charges, the said commissioner shall by his warrant directed to the sheriff, who is hereby empowered and required to execute the same, commit such a person to prison till he do pay the same, together with the charges accruing on such commitment.

[Section VI.] And be it further enacted, That in case any commissioner or assessor shall neglect or refuse to do their duty as required by this act, they and each of them shall be fined by the governor and council, either upon complaint made or other information and proof, in any sum not exceeding ten pounds, to be levied by distress and sale of goods by order of the governor and council in manner aforesaid; and in case of death, removal or other incapacity of any such commissioner or assessor, the governor and council shall from time to time appoint in their place and stead any other person to act in those places respectively, and if any constable or clerk shall neglect or refuse to do their duty required by this act, they and each of them shall be fined by the commissioners aforesaid in any sum not exceeding ten pounds, to be levied as aforesaid by such persons as the said commissioners shall appoint; and in case of neglect, death, removal or other incapacities of any such constable, clerk, or other officer, the said commissioners shall from time to time appoint others to succeed in their place until the said rates are fully levied and completed, all which officers so appointed

by the Governor and council and commissioners aforesaid shall be liable on refusal or neglect to the same penalty as is herein-before appointed respectively.

[Section VII.] And be it enacted by the authority aforesaid, That the said Provincial treasurer shall retain in his hands the sum of one shilling for every pound by him received and paid, and that all and every the sums of money and sum total of the whole value raised or intended to be raised by this act (except what goes to the commissioners and officers aforesaid) shall be and is by this act assigned and appropriated to the support of government and defraying the necessary public charges and exigencies thereof in such manner and proportions as is hereinafter expressed: (That is to say) three hundred pounds thereof current money out of the first that shall by virtue of this act be assessed and paid into his hands, shall be paid to the Lieutenant-Governor, Charles Gookin, Esquire, towards his charge in supporting the administration of this government, and the next money that shall come into his hands shall be paid to the officers of this present House of Assembly in such order and manner as by vote of the said Assembly, signed by the Speaker, shall be ordered and directed; after which the debts already advanced for Indian treaties and presents shall be paid in such order and manner as this Assembly shall direct and appoint. Next two hundred pounds more shall be paid to the said lieutenant-governor towards defraying his charge and expense in transporting himself to this province, and the remainder shall be applied towards the discharging the former allowed debts of this province in order and manner as this Assembly shall direct.

[Section VIII.] And be it further enacted, That if any person or persons shall be fined by virtue of this act, such fine and fines shall be paid to the said provincial treasurer by such person or persons as are by this act empowered and required to estreat or collect the same, and to be for the uses aforesaid, and the said provincial treasurer, as also each sub-treasurer as aforesaid, shall be and is hereby obliged and required to render true and just accounts of their doing in the premises, the sub-treasurers to the said commissioners, and the provincial treas-

urer to the Governor and council and also to the Assembly for the time being at any time or times when he or they shall be by them or either of them respectively required thereto.

[Section IX.] And be it further enacted by the authority aforesaid, That in case any person shall be sued for anything done in pursuance of this act, such person so sued may plead the general issue and give this act and special matter in evidence and if the plaintiff be cast the defendant shall recover treble damages.

Provided also, That none shall be punished for neglect in the execution of this act except he or they be prosecuted within eighteen months after such offenses committed.

Passed February 28, 1710-11. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed March 27, 1712-13, Chapter 195; May 28, 1715, Chapter 215, and October 29, 1715, Chapter 219.

CHAPTER CLXXXI.

AN IMPPOST ACT, LAYING A DUTY ON NEGROES, WINE, RUM AND OTHER SPIRITS, CIDER AND VESSELS.

Whereas it is the practice of all countries to provide funds to defray their exigent charges, and frequent occasions requiring the same in this Province:

[Section I.] Be it therefore enacted by Charles Gookin, Esquire, Lieutenant-Governor by the Queen's royal approbation under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be levied, collected and paid throughout this province for the space of three years next ensuing from and after the tenth day of March in the year of our Lord one thousand seven hundred and ten, for the uses hereinafter mentioned these several duties, rates and imposts following: (That is to

say) for every negro imported, there shall be paid by the importer or possessor thereof, the sum of forty shillings per head, except such negro or negroes belonging to any person or persons residing in this province or importing the same for his or their own immediate service, who shall give bond with security to the collector of these duties in double the sum for payment of the rates thereon imposed by this act, in case the property thereof shall be changed within the space of one year next after such importation; and for all cider imported, except of the growth of the lower counties or West Jersey, there shall be paid by the importer or possessor thereof after the rate of three shillings per barrel, also for all wine imported, and not directly from the place of growth, there shall be paid by the importer or possessor thereof after the rate of forty shillings per pipe; and for rum and other spirits imported, and not directly from the place of growth, there shall be paid by the importer or possessor thereof four pence per gallon.

Provided always, That upon all wines, rum or other spirits and cider imported, for which any the duties aforesaid are to be paid, the officer appointed to receive the same shall allow ten per cent for waste and leakage thereof, which the payer may defalk in proportion to every payment by him made. And further, there shall be levied and paid throughout this province for the same term and uses for all wine, rum and other spirits imported directly from the place of growth in any vessel not owned by the inhabitants of this province, the lower counties or West Jersey, one moiety or half part of the rates and duties respectively before laid and certified: (That is to say) for all wine so imported there shall be paid by the importer or possessor thereof after the rate of twenty shillings per pipe, and for all rum and other spirits so imported there shall be paid by the importer or possessor thereof two pence per gallon, except such wine, rum and other spirits imported directly from the place of growth or produce in vessels so owned as aforesaid, which doth belong to the inhabitants of this province, the lower counties or West Jersey, the same being really and *bona fide* the property of such claimer before the arrival thereof in this river Delaware.

[Section II.] And be it further enacted by the authority afore-

said, That there shall be levied, collected and paid for all ships and other vessels trading to or entering in any port, member or part of this province (except such as are owned by the inhabitants of this province, the lower counties or West Jersey, and except such as shall be built at any of the aforesaid places on their first outset) after the rate of nine pence per ton, according to the burden thereof respectively, as the same shall be expressed in the register. Unless where manifest fraud appears or where no register is produced there, such vessel shall pay the said nine pence per ton according to the measure thereof, which shall be paid or secured to be paid within one month in current silver money by the master or owner of all such ships and vessels as aforesaid within the space of eight-and-forty hours next after entry made thereof respectively, upon the penalty of ten pounds forfeiture to be paid by any person refusing to comply with this act, the same to be levied by a warrant under the hand and seal of any one or more justices of the peace, who, on proof made by the officer appointed to receive the same, are hereby empowered and required to issue such warrant to distrain and make sale of the offender's goods and for want of such distress to imprison the body without bail or mainprise until full payment thereof, together with all other reasonable charges that shall accrue, be made.

[Section III.] And it is futher enacted, That all the rates and duties aforesaid on negroes, wine, rum and other spirits and cider by this act laid and assessed, shall within the space of forty-eight hours after entry made be paid or secured to be paid within one month after such importation by the importers or possessors thereof as aforesaid respectively, in lawful silver money. But if any person shall presume to land any such negroes or liquors which by this act is [sic] obliged to pay any of the aforesaid duties or imposts before license or permit obtained from the proper officer hereinafter named for so doing, all such negroes and liquors so landed, if taken, shall be forfeited and seized, and after due proof thereof, made by two credible witnesses before one or more justices of the peace, shall by the officer aforesaid be sold for the utmost the same will fetch, and in case the said liquors or negroes so run or

landed without license cannot be found then the person so offending shall, upon due proof made, forfeit the value thereof, the same to be recovered in any court of record in this province, wherein no essoin, protection or wager of law nor more than one imparlance shall be allowed.

[Section IV.] And be it further enacted by the authority aforesaid, That Samuel Holt, of Philadelphia, is hereby appointed collector and receiver of all and singular the rates, duties and imposts by this act laid, assessed and intended to be levied and paid, as also all fines, forfeitures and seizures arising by means thereof or in anywise appertaining thereunto; which as the proper officer for that purpose he is hereby required to demand and by all lawful means recover and receive the same, and fair accounts thereof and of all such his proceedings therein relating to the same shall keep always open to the public treasurer of this province for the time being, his inspection with whom also he shall account when and so often as thereunto required, and shall from time to time, once in six weeks or oftener if need be during the term of three years before prefixed, pay in all such sum and sums of money as shall come to his hands or by him in anywise received by virtue of this act unto the provincial treasurer aforesaid, whose receipts shall be a sufficient discharge for the same.

And for the more effectual putting this act in execution and preventing of fraud:

[Section V.] Be it further enacted, That the collector or receiver hereby appointed shall have full power and authority to enter on board ships and other vessels and take the sheriff or water bailiff to assist, if he sees occasion, who are hereby required to be aiding in such cases upon the penalty of five pounds fine for every refusal to be recovered by proof of the said collector before one justice so as aforesaid, and shall examine all persons and due search make and shall require true entry to be made of all the aforesaid goods and negroes which shall be imported into this province within the term before prefixed, and to enter into and in case of opposition or refusal to break open any house, warehouse, cellar or other place where any of the said negroes or goods may be suspected to be concealed, and to

do or to procure to be done all other matters or things which may tend to the true payment of the said duties and rates by this act imposed, and the due collections thereof, which any collectors of the Queen's customs may or can do touching those customs. And further the said collector is hereby empowered and required to gauge all such liquors for which any duties by this act should be paid, also, if need be, to measure any ship or vessel for which he is to receive tonnage and to compute the burden thereof.

[Section VI.] And be it further enacted by the authority aforesaid, That where any person being required, pursuant to this act, to pay any of the duties, rates or imposts required to be paid by the same shall plead excuse from any of the exceptions therein contained, such person is hereby obliged to make positive proof of his assertion within the time hereinbefore limited for payment of the said duties respectively and shall make appear that by this act he is exempted, otherwise the same shall have its full force and effect without further delay, any law, usage or custom to the contrary in anywise notwithstanding.

Provided always, That where any such person being destitute of other proof is willing to prove his allegation by oath or affirmation (before a justice of the peace in the presence of the collector) of himself and any one more credible witness, such person shall be admitted so to do and the same shall be accounted valid in any case relating to this act, and further, the collector is hereby required to grant permits to land all such negroes and liquors as have paid the duties and imposts aforesaid and for any money received by virtue of this act shall give discharges to the persons paying the same respectively gratis, and for his whole trouble in collecting the several rates, duties and imposts as also for gauging liquors and measuring vessels where the case requires and for receiving all other money arising by virtue of this act and paying the same into the public treasurer's hands as herein is before expressed he shall have and discount out of the same one penny for every shilling so by him paid and shall be further allowed by the said treasurer in the final adjusting of his account all reasonable charges in the

prosecution and recovery of the fines, forfeitures and seizures by him made pursuant to the direction of this act.

Provided also, That the said officer shall before he goes upon the execution of his office be sworn or attested before some justice of the peace, faithfully and truly to perform the same pursuant to the tenor hereof and shall enter into bond with one or more sufficient sureties in the sum of five hundred pounds lawful money, the same to be taken by the public treasurer for the use of the government. And in case of a failure, the penalty shall be recovered in any court of record within this province and applied towards the discharge of the public debts thereof.

[Section VII.] And it is further enacted by the authority aforesaid, That all moneys arising by virtue of this act which shall come to the public treasurer's hands as also what money shall remain in his hands by means of one other act of Assembly made this present session, entitled "An act for raising a supply of two pence per pound and eight shillings per head,"¹ after all payments made out of the same as by that act is directed. And what other money shall come to his hands by means of one other act of Assembly made this present session, for collecting the arrearages of former taxes shall be reserved and by him paid to the uses and pursuant to the order of payment hereby directed in due proportions until the whole is fully paid and discharged: (That is to say) such public debts only which by vote of this present Assembly shall be allowed and order of payment thereof directed under the Speaker's hand to the provincial treasurer and no other and if after all such public debts of this province so allowed by this act be so as aforesaid discharged there shall yet remain any public stock in the said treasurer's hands the same shall so continue and be by him paid to such other uses as the laws of this province for the time being shall direct and not otherwise.

[Section VIII.] And be it further enacted by the authority aforesaid, That the public treasurer for the time being shall before he enters upon the executing his office be attested before the governor and council that he will faithfully discharge the

¹ Chapter 180.

same and shall enter into bond to the governor with two sufficient sureties in the sum of one thousand pounds lawful money, for the true performance thereof; which bond shall remain in the secretary's office to the use of this government and in case of failure the penalty of the same shall be recovered in any court of record in this province to be applied towards the discharging of the public debts thereof, and in case of the public treasurer's death or removal the governor and council for the time being shall appoint another fit person in his stead, under the same security and restriction, and with the same powers; which treasurer for the time being shall be obliged fair accounts to keep and the same to lay before the governor and council, as also before the Assemblies of this province when and as often as thereunto required. And in case of the collector's death or removal the treasurer shall appoint another fit person under the same rules and qualifications as this act directs.

Provided always, That the public treasurer shall deduct and keep one shilling for every twenty shillings for all money which he shall receive and pay by virtue of this act.

Passed February 28, 1710-11. Repealed by the Queen in Council February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed June 7, 1712, Chapter 194; March 27, 1712-13, Chapter 199, and May 26, 1715, Chapters 217 and 218.

CHAPTER CLXXXII.

AN ACT FOR RAISING TWO THOUSAND POUNDS FOR THE QUEEN'S USE BY A TAX OF FIVE PENCE HALFPENNY PER POUND AND TWENTY SHILLINGS PER HEAD.

We, the representatives of the Province of Pennsylvania in obedience to the Queen and as a testimony of the loyalty and sincere affections of all her loving subjects in the said province, which we shall be always ready to express to the best of our abilities and as far as our religious persuasions can permit,

[Section I.] Do humbly crave that it may be enacted, and be

it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under Willian Penn, Esquire, true and absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be levied and raised upon all estates, real and personal, within this province of all and every person and persons (the estate of the proprietary and his lieutenant-governor only excepted) the sum of five pence halfpenny for every pound clear value of the said estates to be paid by the owners or possessors thereof, and that every single freeman whether residing with his parents or elsewhere, who at the time of the assessment shall be of the age of twenty-one years, and hath been out of his apprenticeship or servitude for the space of six months and is not worth in lands, goods or chattels fifty pounds, shall pay the sum of twenty shillings, and that every man servant, who at the time of the execution of this act shall receive wages for his service, shall pay the like sum of twenty shillings, all which said several sums so to be raised as aforesaid shall be assessed and levied as by this act is directed and paid for the use hereinafter mentioned and expressed.

[Section II.] And be it further enacted by the authority aforesaid, That the persons hereinafter named shall be commissioners for the effectual putting this act in execution in each respective county: (That is to say) for Philadelphia city and county, Edward Farmer, Rowland Ellis, Thomas Masters, and Nathan Stanbury; for Bucks county, Joseph Kirkbride, Thomas Stevenson, Thomas Watson and John Rowland, and for Chester county, Jasper Yeates, Caleb Pusey, Nicholas Pyle and Henry Peirce, which said commissioners or any two of them in each respective county shall on the sixteenth day of the month called August, instant, meet together and order the respective sheriffs of each county to summon the elected assessors to meet them at the place where the courts are usually held on the twenty-seventh day of the said month, and that the said commissioners do at the same time issue forth their warrants, drawn by the clerk, and directed to the constables of each township requiring them

to bring to the said commissioners and assessors on the said twenty-seventh day of the month called August, the names and surnames in writing of every inhabitant, together with all free-men, inmates, hired man-servants and all other persons residing therein and ratable by this act, together with what lands and tenements they respectively hold in such townships and the estates of all others within the same and how much of the said land is fallowed, also how many bound servants and negroes and their ages, with what live stock of cattle, horses, mares and sheep they possess, which constables shall have paid them by the sub-treasurers hereinafter mentioned in the town of Philadelphia one penny, and in the respective counties three pence per pound for their so doing. And the said commissioners or any two of them together with the said assessors or any four of them shall meet on the aforesaid twenty-seventh day of the Sixth month and receive the aforesaid returns from the said constables, and shall then and there by all lawful means inform themselves of the clear value of all estates in their respective counties, and shall duly, equally and impartially assess themselves and all others who are ratable by this act at the rate of five pence halfpenny per pound and twenty shillings per head as aforesaid. And shall also then nominate and appoint the constables or some other persons for each township within the limits of the respective counties as they may see needful to collect the said assessment, and shall also then order the clerk to draw fair duplicates of each of the said townships' assessment, certified under his hand and sent to each of the said collectors, one for their respective districts, before or on the tenth day of September next with a warrant annexed, signed by the same commissioners or any one of them, empowering and requiring them respectively to collect and receive from the persons assessed in such aforesaid duplicates the sums therein mentioned in ready money or in good fine merchantable flour at twelve shillings per hundred in sizeable cask full and well packed, to be branded with the bolter's brand and delivered at Philadelphia to the provincial treasurer, or otherwise in good merchantable wheat at three shillings and three penœ per bushel, to be delivered at

such market, mill or mills in the respective counties where the charge of the portage thereof to Philadelphia shall not exceed two pence farthing per bushel and that the receipts for the said wheat or flour as aforesaid, being delivered unto the respective collectors by the persons paying the same as aforesaid, shall be taken by the said collectors as pay from the respective persons assessed in such duplicates. And the aforesaid collectors at their first going to demand such assessment shall acquaint all concerned therein of the day of appeal, which shall be appointed by the said commissioners and assessors to be on the twenty-fourth day of September next, and the said commissioners and assessors shall on the aforesaid twenty-fourth day of September next nominate and appoint one substantial freeholder in the respective counties of Chester and Bucks to be sub-treasurers, and Samuel Carpenter for the county of Philadelphia to whom the said collectors shall once in every month at least carry in and pay such receipts and money as shall from time to time come to their hands, so that the whole sums they are respectively charged with by such warrants and duplicates shall be fully carried in and paid as aforesaid on or before the last day of October next, retaining only nine pence per pound for their collecting and paying, which treasurer's receipt shall be a sufficient discharge to such collectors for the whole or so much of the said assessment as shall then be paid to him, and that the said treasurers shall have in writing from the clerk of the respective counties within ten days after the day of appeal aforesaid an account of the sums total which every respective collector shall be charged with pursuant to this act, and the provincial treasurer hereinafter named shall have from the said clerk within fifteen days after the day of appeal a particular account of what each and every person is assessed in each of the counties and city of Philadelphia respectively, and the said sub-treasurers shall once a month at least render a just account of and bring in and pay unto Samuel Carpenter, of Philadelphia, merchant (who is hereby appointed the provincial treasurer), all such sums of money and receipts for wheat or flour as they shall have then received from the said collectors until the whole be fully completed, except four pence for every pound

which he is hereby empowered to retain for his receiving and paying the said assessments and except six pence for every pound which he is hereby required to pay to such of the said commissioners and assessors as shall attend the service, to be equally divided amongst them for their labor and care in the premises and except five pounds to the clerk of Philadelphia, four pounds to the clerk of Chester and three pounds to the clerk of Bucks, which sums the said treasurer of each county is hereby required to pay them respectively for their whole trouble of writing and delivering to the parties concerned all such warrants and duplicates as aforesaid, and the said clerks are hereby required duly to deliver them accordingly. But in case of the said treasurer's death or removal then such payment to be made to such person as shall be appointed by the Assembly for the time being; but if no Assembly be sitting then to such person as the governor and council shall appoint to supply that place till the next meeting of the Assembly: which provincial treasurer as also the sub-treasurers shall give sufficient security, the provincial treasurer to the governor, and sub-treasurers to the said commissioners of each county or any two of them, for the due performance of their charge and trust, if required.

[Section III.] And be it further enacted by the authority aforesaid, That every of the said collectors so to be appointed as aforesaid, shall and are hereby obliged to pay the whole and every of the several sums of money assessed and mentioned in the said duplicates for their respective districts or otherwise shall produce receipts testifying the payment thereof in merchantable flour at Philadelphia to the said provincial treasurer as aforesaid, or in wheat at such market, mill or mills as aforesaid, and deliver the same receipts unto the respective sub-treasurers aforesaid on or before the last day of October next, although such collector hath then neglected to collect or levy the same pursuant to the power hereby given him. And if any such collector shall refuse or neglect to pay the several sums of money assessed and mentioned in the said duplicates or any part thereof, or otherwise to produce and deliver unto the said sub-treasurer receipts testifying the payment thereof in flour or

wheat as hereinbefore directed on or before the said last day of October next, every such collector upon complaint and proof made by any of the said treasurers (who are hereby required in case of such neglect or refusal to make complaint accordingly) before any one or more of the commissioners shall be and is hereby fined in the sum of five pounds and upon such conviction any one or more of the said commissioners are hereby empowered and required to issue a warrant under his or their hands and seals directed to the respective sheriff requiring him forthwith to levy the said fine, together with the whole and every of the several sums assessed and mentioned in the said duplicates or so much thereof as shall remain unpaid to the said treasurers respectively, by distress and sale of such collector's goods and chattels, and if goods and chattels of such collector sufficient to satisfy the said fine and sum so unpaid, together with reasonable charges of distress and sale, cannot be found, then to take the body of such collector and him safely keep in prison until he shall satisfy the same, and every sheriff to whom such warrant shall be directed is hereby required and commanded to execute the same according to the tenor thereof; and every respective warrant issued in pursuance of this act, empowering to make distress or take the body of any person shall extend and be in force against any person fined or assessed as aforesaid wheresoever found in any part of this province and upon such distress and sale of goods aforesaid, the overplus (if any) shall be returned to the owners, all necessary charges being first deducted, and such collector so distrained on or imprisoned respectively, in order to reimburse himself, shall by virtue of this act without any further or other warrant have power to collect and distrain in manner aforesaid to his own use from any person or persons for the whole or so much as shall remain unpaid of such person's assessment as shall have refused or neglected to pay the same within the time limited by this act (it being first by such collectors duly demanded), and the sheriff shall deliver to the respective sub-treasurer all such sums as by virtue of this act he shall be obliged to demand, receive or distrain from any such refusing or negligent collector within twenty days after the receipt of such aforesaid warrant

to him directed, and the said treasurer's receipt shall be a sufficient discharge to any such sheriff, and if such sheriff shall not pay the said treasurer respectively all such fines and sums to be by him demanded, received or distrained for as aforesaid, upon complaint made by the said treasurer to the governor such sheriff shall be fined by the governor and council in the sum of ten pounds to be levied by such officer or officers as the governor and council shall think fit to order and appoint, to be levied by distress or sale of goods in manner aforesaid, together with the sums which such sheriff shall be by the said commissioners' warrants empowered and required to demand, receive and distrain for, all which said sums shall be paid by such officers into the hands of the said provincial treasurer, twenty days after his or their receipt of the order from the governor for extending the same.

Provided always, That if upon such rating or assessment made as aforesaid, any person shall find him or herself aggrieved or overrated such person may apply to the aforesaid commissioners and assessors on the day by them to be appointed for that purpose as aforesaid. And to the end all persons concerned may know what their particular assessment amounts to, the respective collectors shall at least three days before the day of appeal appointed as aforesaid acquaint every person assessed in their respective limits or townships what their respective assessments amount to, making demand of the same, as aforesaid, as also acquaint them of the said day when the commissioners and assessors are to meet to hear such complaints, and the said commissioners and assessors are hereby required to meet accordingly on the twenty-fourth day of September next, as aforesaid, and strictly examine such persons upon their affirmation or proof of others, and are also hereby empowered to diminish or add to such person's rate or assessment as they shall think just and reasonable.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall refuse to pay the several sums or proportions in manner as is appointed by this act for such person to pay, upon demand made by the collector of the place, according to the precept or estreat to him de-

livered by the aforesaid commissioners and assessors, it shall and may be lawful to and for such officer or collector, who are hereby thereunto authorised and required for the non-payment thereof without any further or other warrant, to distrain the person or persons so refusing by his or their goods or chattels and make sale thereof returning to the owner the overplus, if any be, all necessary charges being first deducted; and if no visible estate can be found to make distress upon, then the person assessed shall be taken in execution and remain prisoner until he shall answer the same together with such other sums as such person is assessed by virtue of this act in any other county.

[Section V.] And be it further enacted by the authority aforesaid, That all freemen not being freeholders nor having a certain place of abode and all the said hired servants shall be taxed at the place where they reside at the time of the constables taking the names as aforesaid, and that every householder shall at the request of the constables of the respective townships, wards or places give an account of the names, qualifications and estates of such persons as shall sojourn, lodge or dwell in their respective houses under the penalty of forty shillings, to be levied, charged and paid in manner aforesaid; and if any such freeman or servant shall not be found at such place of residence, nor within the same township where their names shall be taken as aforesaid, at the time when such respective collectors shall come to receive such householder's assessment, then unless such freeman or servant hath by himself or his friend paid, or unless such householder, master or employer do then pay, the same to such collectors (which if he hath effects of the said freeman's or servant in his hands he is hereby authorized and required to pay), such collectors are hereby obliged forthwith to give notice thereof to any of the said commissioners who is hereby required to issue forth his warrant, directed to such constable as he may think most convenient, who is hereby required to execute the same to take such freeman or hired servant anywhere in this province and bring him before any one of the said commissioners, and if he do not then pay the said assessment with all necessary charges the said commissioner shall by his warrant directed

to the sheriff (who is hereby empowered and required to execute the same) commit such a person to prison till he do pay the same, together with the charges accruing on such commitment.

[Section VI.] And be it further enacted by the authority aforesaid, That if any commissioner or assessor shall refuse or neglect to do their duty as required by this act they and each of them shall be fined by the governor and council in any sum not exceeding ten pounds to be levied by distress and sale of goods, by order of the governor and council in manner aforesaid. And in case of the death, removal or other incapacity of any such commissioner or assessor the governor and council shall from time to time appoint in their place and stead any other person to act in those places respectively; and if any constable or clerk shall neglect or refuse to do their duty as required by this act they and each of them shall be fined by the commissioners aforesaid in any sum not exceeding ten pounds, to be levied as aforesaid by such persons as the said commissioners shall appoint and in case of neglect, death, removal or other incapacity of any such constable, clerk or other officer the said commissioners shall from time to time appoint others to succeed in those places until the said rates are fully levied and completed all which officers so appointed respectively by the governor and council and commissioners aforesaid shall be liable on refusal or neglect to the same penalty as hereinbefore appointed respectively.

[Section VII.] And be it further enacted by the authority aforesaid, That the said provincial treasurer shall retain in his hands the sum of one shilling for every pound value by him received and paid, together with reasonable charges of storage of the wheat or flour to be delivered into his hands by virtue of this act and that all and every the sums of money and sum total of the whole value raised or intended to be raised by this act (except what goes to the commissioners and officers aforesaid) shall be and is by this act appointed to be paid by the said provincial treasurer in manner following: (That is to say) first the sum or value of two thousand pounds shall be paid by the said provincial treasurer in the specie he shall receive it and at the rates settled by this act for the use of our sovereign Lady and

Queen of Great Britain, etc., to the lieutenant-governor of this province for the time being, for him to pay or deliver the same to such person or persons or to his or their order as she hath empowered to draw out her moneys remaining in her offices of receipt in any of these her northern plantations or hereafter shall from time to time be pleased to authorize and empower to receive the same, and the governor's receipts shall be the said treasurer's sufficient discharge for such payments made accordingly; and after the said sum or value of two thousand pounds is fully answered and paid to the Queen's use as aforesaid, the said treasurer shall discharge and pay all such sums as he shall be required to pay by any order or orders of this Assembly to be issued under the Speaker's hand this present session, and if any overplus shall remain in the said treasurer's hands or uncollected after all the said orders of payment are fully discharged and paid and all other necessary charges deducted, the same shall remain in the said treasurer's hands to be employed and disposed of for such uses as the governor and Assembly for the time being shall direct and appoint.

[Section VIII.] Provided always and be it enacted by the authority aforesaid, That it shall and may be lawful for the said provincial treasurer, by the governor's direction, to exchange or dispose of all or any the several species of money, wheat or flour by him to be received by virtue of this act, and to convert the same into such other specie as shall answer the Queen or the governor's order as aforesaid, anything herein contained to the contrary notwithstanding.

[Section IX.] And be it further enacted by the authority aforesaid, That if any person or persons shall be fined by virtue of this act such fine and fines shall be paid to the said provincial treasurer by such person or persons as are by this act empowered and required to estreat or collect the same, and to be for the uses aforesaid. And the said provincial treasurer as also each sub-treasurer as aforesaid, shall be and is hereby obliged and required to render true and just accounts of their doing in the premises, the sub-treasurers to the said commissioners, and the provincial treasurer to the governor and council, and also to the Assembly for the time being at any time or

times when he or they shall be by them or either or any of them respectively required thereunto.

[Section X.] And be it further enacted by the authority aforesaid, That if any person shall be sued for anything done in pursuance of this act, such person so sued may plead the general issue and give this act and the special matter in evidence, and if the plaintiff be cast the defendant shall recover treble damages.

Provided also, That none shall be punished for neglect in the execution of this act unless he or they be prosecuted within eighteen months after such offense committed.

And whereas by a petition from several of the freeholders inhabiting in this province it is set forth that several apprentices and bought servants have left their masters very much to the loss and damage of the said masters, and enlisted themselves in the Queen's service in the Province of New Jersey; and in consideration of the great inequality and hardships which appears to fall upon such masters who so loose their servants and yet pay proportionably their rates by this present act levied upon them for the Queen's use:

[Section XI.] It is humbly prayed that it may be enacted and be it enacted by the authority aforesaid, That every person inhabiting within this province who shall make proof before the lieutenant-governor and treasurer of this province for the time being that any servant belonging to him or her hath since the first day of the fifth month last [en]listed himself in the Queen's service, or shall at any time before the twentieth day of October next so [en]list himself, without the approbation of his master or mistress, every such master or mistress shall receive out of the sum of two thousand pounds intended to be raised by this act for the Queen's use, satisfaction for the time and service of every such servant in manner following: (That is to say) for every month of such servant's time of servitude unexpired at the day he absented himself from his said master's or mistress's service that shall truly appear by indenture or covenant to be produced before the governor and treasurer aforesaid on or before the last day of October next, the sum of ten shillings shall be reckoned and cast up by the said treasurer and the full

sum which such unexpired time of servitude shall at that rate amount to, shall be paid by the said treasurer to every such master and mistress respectively, or to his or her executors, administrators or assigns on the first day of December next, and not before, so as the said whole sum shall not exceed the sum of twenty pounds, anything herein contained to the contrary notwithstanding.

[Section XII.] And be it further enacted by the authority aforesaid, That every such master or mistress, his or her executors or administrators shall upon satisfaction so made as aforesaid, deliver up such servant's indenture or covenant to the governor and by an indorsement thereon or otherwise assign all his, her or their right and interest in such servant unto such person or persons as the governor shall, on the Queen's behalf, direct and appoint.

Provided always, nevertheless, That if any servant [en]listed as aforesaid, shall be by the officers under whom they are [en-] listed or any other person or persons whatsoever returned to his master or mistress, his or her executors, administrators or assigns on or before the first day of December next, without any charge to his said master or mistress, whole and unmaimed, then and in such case the said treasurer shall not pay such master or mistress, his or her executors, administrators or assigns any sum or sums hereinbefore intended to be allowed such master or mistress for such servant. And to the end that there may be money or other effects in the treasury sufficient to satisfy such sums as shall be payable to such master or mistress as aforesaid by virtue of this act, the said treasurer is hereby empowered and required to retain and keep in his hands until the first day of December next, so much money or the value thereof as shall be sufficient to satisfy and pay the same.

Passed August 10, 1711. Confirmed by the Queen in Council, February 20, 1712-14. See Appendix III, Section II, and the Acts of Assembly passed March 27, 1712-13, Chapter 195; May 28, 1715, Chapter 215, and October 29, 1715, Chapter 219.

At a General Assembly begun and holden at Philadelphia, the fifteenth day of October, A. D. 1711, and continued by adjournments until the seventh day of June, 1712, the following acts were passed:

CHAPTER CLXXXIII.

AN ACT CONFIRMING PATENTS AND GRANTS.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all lands and hereditaments which any person or persons do hold and enjoy, or ought to have, hold and enjoy within this province, as well by or under any gift, grant or estate made or granted by the said Proprietary and Governor, William Penn, or his commissioners of property and agents, pursuant to the said person's right of purchase, demise or grant from him the said proprietary, as also by or under any old grant, patent or warrant obtained or had from governors or lawful commissioners, under the Crown of England, before the date of the late King Charles the Second, his letters patent to the said proprietary, or by any other legal or equitable grant, right, title, entry, possession or estate whatsoever, shall, by virtue of this act, be held and enjoyed by such person or persons according to the purport and intent [of the] respective right, grant, patent, purchase or demise, and for and in the estate or estates thereby granted or intended to be thereby granted or settled.

Provided always, That nothing herein contained shall be construed or adjudged to confirm any lands taken up by virtue of the said old grants and not duly seated or improved by the grantees or their assigns before the year one thousand six hundred and eighty-two, nor to create or confirm any right or

interest to any person or persons whatsoever for or to any more or greater quantity of lands, marsh, meadow or cripple than shall appear, by gift, grant, demise or purchase from the said proprietary or his commissioners or agents, or from his predecessors, the former governors or commissioners aforesaid, to be the said person or persons' just due (over and above the six acres by the said proprietary allowed to be added to every hundred acres of land for roads and barrens, and the four acres over or under, to be accounted for difference of surveys), nor shall create a right to the possessor or claimer of any lands that were not taken up or surveyed by virtue of a warrant or order from persons empowered to grant the same, and by a surveyor appointed for that purpose; anything herein or in any patent, grant or survey to the contrary in anywise notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That all the sales, gifts, grants, surrenders, assurances, conveyances and estates in anywise conveyed, had or made to or for the said proprietary, by or from any person or persons whatsoever, of any lands, tenements or other hereditaments, for or upon any consideration whatsoever, shall stand, remain and be good and available in law, according to the true meaning and purport of the same; saving the right, title and demand of all and every person and persons whatsoever, and of their heirs and assigns, other than such person or persons, and their heirs, being parties or privies to such grants, surrenders, conveyances or assurances, or from whom the said proprietary hath had, obtained or purchased any of the said lands, tenements and hereditaments by exchange, surrender, gift, grant, deed or otherwise.

[Section III.] And be it further enacted by the authority aforesaid, That the said William Penn, his heirs and assigns, proprietaries of this Province of Pennsylvania, either by him or themselves, or by his present commissioners or deputies, or by commissioners, deputies or agents, to be by them appointed, shall and will from time to time, and at all times hereafter, upon all reasonable demands, make, do and execute, or cause so to be, all and every such patents, grants or assurances as may

be necessary according to the laws and constitutions of this province, to grant, assure and confirm all and singular the lands, tenements and hereditaments in the said province by him, the said proprietary, or his commissioners or agents heretofore sold, granted or disposed, or which by him, his heirs or assigns, or by his or their commissioners or agents shall hereafter be sold, granted or disposed to any person or persons, bodies politic or corporate, to hold the said lands, hereditaments and premises, with their appurtenances, to the grantees or persons interested therein, for such estate or estates, term or terms of life, lives or years, and for such uses and under such rents or acknowledgments as the same lands and premises were, are or shall be sold, granted or disposed of as aforesaid: saving to all persons, their rights, titles, estates and interests in lands (granted, derived or claimed by, from or under the said old patents or grants made before the date of the said letters patent) seated and improved as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That all and every the grants, patents, deeds or conveyances of or for any lands, tenements and hereditaments in this province, heretofore made or given by the said proprietary, his commissioners or agents under any of his seals or hereafter to be made, given or passed by the said proprietary, his heirs or assigns, or by his or their deputies, commissioners or agents, sealed with or under the seal or seals now used or hereafter to be used for that purpose, and entered upon record in the patent or rolls office (which is hereby declared to be an office of record), shall be good and available in law, and shall be adjudged, deemed and taken, and are hereby declared to be grants or conveyances and matters of record and to have no need of delivery before witnesses, livery and seizin, or acknowledgements as deeds of other persons may or ought to have; and none shall be admitted to plead *non est factum* or *nul tiel* record against them, or shall plead in disability of the person or persons, in whose names or stead they have been or shall be made or granted; but inasmuch as they are in the nature of conveyances, therefore, if any shall have occasion to deny the operation thereof, the party may plead *non concessit*, and prove in evidence that he or they, in whose name or stead the same patents or

other deeds were made or granted as aforesaid, had nothing in the lands or tenements so granted, or that the same lands and hereditaments did not pass by such grant, deed, patent or conveyance.

[Section V.] And be it further enacted by the authority aforesaid, That no grant, patent or conveyance of any lands, tenements or hereditaments so as aforesaid made, or which shall at any time hereafter be made or granted by the said proprietary, his heirs or assigns, or by his or their said commissioners or agent as aforesaid, to or for the use of any person or persons, bodies politic or corporate, shall be judged or taken to be defective, avoided or prejudiced for or by reason of any misnaming, misrecital or nonrecital of any of the said lands, tenements, hereditaments and premises or any part thereof, or any lack of finding of offices or inquisitions of and in the premises or any part thereof, whereby the said proprietary's title therein ought to have been found, or for misrecital or nonrecital or not mentioning or not true mentioning of the said proprietary's estate or estates of, in or to the premises, or for misnaming or not true naming of the counties or places where the said lands and premises lie or be, or for lack of the true naming of the lands and premises, or of the natures, kinds or qualities thereof, or for any want of form, or for not being formally entered upon record, or for want of being heretofore sealed with the great seal, or for not being sealed and delivered before witnesses, or for want of livery and seizin or attornment, or for not mentioning the consideration; but that all the said gifts, grants, patents and conveyances with all the warrants and returns of surveys, pursuant thereunto, and other writings relating to the said lands, hereditaments and premises, shall be and are hereby declared and enacted to be good and available in law against the said proprietary, his heirs and assigns and against all others claiming or to claim under him or them and against all and every other person and persons, that shall at any time inherit or enjoy this province; and that the same shall be and remain in full force, and be maintained and have effect according to the true intent and purport thereof, and shall be expounded, deemed and adjudged most beneficially for the patentees, donees and grantees

of the same, and their heirs and assigns, executors and administrators, according to the words, tenor and true meaning of every of the said gifts, grants, patents, conveyances, surveys and other writings.

[Section VI.] And be it further enacted by the authority aforesaid, That all and singular the said lands, hereditaments and premises and every part thereof, which have been granted or confirmed by the said patents or conveyances passed under the proprietary's seal and recorded as aforesaid, as also all and singular the lands and hereditaments hereafter to be granted, conveyed or confirmed by patents or other conveyances, which shall pass under the seal of the said proprietary, his heirs or assigns, and be entered of record in manner aforesaid and every part thereof shall be and continue unto the said patentees, donees and grantees, and such as shall legally represent them, free and clear, and freely and clearly acquitted and discharged, or otherwise well and sufficiently saved harmless and indemnified by the said proprietary, his heirs and assigns, of and from all Indian claims, and all other gifts, grants, sales, titles, charges and incumbrances whatsoever, heretofore had, made, done or suffered, or hereafter to be had, made, done or suffered by him, the said proprietary or his heirs: saving to all and every other person and persons, bodies politic and corporate, their heirs and successors, executors, administrators and assigns, all such rights, titles, estates, rents, reversions, commons, profits, interests, tenures, claims and demands whatsoever, of what nature, kind or quality soever of, in and to or out of the said lands, tenements and hereditaments or any part thereof, as they or any of them had or ought to have had before the making of this act, in as large and ample manner, form and condition, to all intents and purposes, as if this act had never been made, anything herein contained to the contrary notwithstanding.

Provided always, That nothing in this act contained shall extend to make patents of any office to be of any other effect than if this act had never been made; nor shall this act make good any patent that shall be annihilated or made void by due course of law, nor shall anything herein contained, oblige

the proprietary or his heirs to make good to any purchaser of a right or rights to unlocated lands, who inadvertently or by misinformation did or may obtain a patent or confirmation of lands which are discovered to be the prior right of another person, further or any more than the same quantity of land in the next advantageous place that such purchaser shall choose and discover to be vacant and free from all other claims. But where any such prior right shall appear and take effect against any such person or persons who have purchased the same tract or parcel of land of the proprietary or his commissioners or agents, by a certain name, or by an agreed location in that particular place, or the warrants expressing the same accordingly, then and in such case the proprietary, his heirs and executors, shall refund and make good to such second purchaser the full sum or value, which he, the said proprietary or his agents, did receive for the same, together with lawful interest from the time such payment was made. And in both the above mentioned cases, if the latter purchaser, his heirs or assigns, shall have made any improvements on the said land such improvement shall be valued by two or more persons to be indifferently chosen by each of the said claimers or purchasers, which both parties are by this act obliged to do, and such value as they or the majority of them shall agree to, under their hands, shall be paid by the claimer of the first right to such improver for his improvements accordingly.

And whereas several persons before the date of the said late King's royal charter obtained grants or patents for more lands than they had any right unto by their original warrants or orders for the surveying or laying out the same, in which case it has been the method of the said proprietary and his commissioners, by their warrants to order resurveys of those lands, and allot to the possessors thereof or to the heirs or assigns of the old patentees or grantees so many acres of land and meadow or marsh, as really belonged unto them by virtue of the said respective original warrants or orders, or by the right of occupancy or improvement, and confirm the same by new patents, and dispose the residue as other vacant lands which had never been surveyed. Nevertheless, no effectual care has been

hitherto taken for vacating and annulling the record of those old exorbitant grants, patents, surveys or locations; and for securing the new patentees against the demands of the old patentees and possessors, or such as claim by, from or under them:

[Section VII.] Therefore be it enacted by the authority aforesaid, That nothing herein contained shall extend to revive, make good or confirm any of the said old grants or patents, nor give to the grantees or patentees of the same, nor their heirs, executors or assigns, any right, title, interest, or estates of, in, to or for any more or greater quantity of lands, marsh, meadow or cripple, than were expressly granted or really intended to be granted in and by the said original first warrants or orders for survey to which the old grants respectively relate. But that all and every the said old grants or patents, as to the residue or overplus of the said lands and hereditaments contained therein, shall be and are hereby declared to be null and void and of none effect; and that all and every the grants, patents, conveyances and assurances made or to be made and granted for the said residue or overplus lands, to any person or persons whatsoever, and all the estate and estates, rights, interests and possessions of any person or persons of, in or to the said overplus lands, shall, notwithstanding any of the said old grants or patents, be and continue and are hereby declared to be good and available in law against the said old patentees and against all others claiming or to claim the said overplus land or any part thereof by, from or under them or any of them, as if the same lands had never been surveyed or located before the date of the said King's letters patent: saving always to all and every person and persons (other than those who will set up or insist on any of the said old grants or patents to maintain or make good their demands or claims to any more of the said overplus land than what they or those under whom they claim have occupied, built upon or improved) all and every such right, title, interest, use, possession, estate, rents, reversions, commons, profits and advantages whatsoever, as he, they or any of them, should or might have had before the

making of this act, anything herein contained to the contrary notwithstanding.

And whereas, by a late law of this province, passed in the year one thousand seven hundred, and confirmed in the year one thousand seven hundred and one¹ it was (amongst other things) enacted that any person's lands in this province should be resurveyed; and if upon such resurvey (after allowance of four acres in the hundred, over or under, for difference of surveys, and six per cent for roads) an overplus should be found, the possessor thereof should have the refusal of it from the proprietary at reasonable rates; and in case of disagreement about such rates, the proprietary was to choose two men, and the possessor two more, who should either fix a price on the said overplus land or appoint where it should be taken off for the proprietary in one entire piece at an outside (saving to the purchaser or renter his improvements and best conveniences), any three of whom agreeing should be conclusive; and the charges of resurveying should be borne by the purchaser or renter of the main tract, if he bought the overplus or if not, then by the proprietary; and that deficiencies should be made good by the proprietary, according as he received for overplus land as aforesaid.

In pursuance of which act, resurveys have been made of divers lands, wherein overmeasure was found. But the act expiring before the same could be cut off, or the rates thereof settled as the said law directed, the proprietary is not satisfied for the overmeasure, and the owners of the land want confirmation of what is their just due:

[Section VIII.] Be it, therefore, enacted, That where any overplus land has been found upon the said resurveys (after allowances are made for roads and difference of surveys as aforesaid) the proprietary, his heirs and assigns, and his or their commissioners or agents, shall give the possessor or owner of such land the refusal thereof at reasonable rates; and in case of disagreement with the said possessor about such rates, then the proprietary, his heirs or assigns, or his or their commissioners or agents, shall forthwith choose two men, and the said

¹ See Chapters 88 and 105.

possessor or owner shall at the same time choose two more, which persons so chosen, or any three of them, shall within thirty days after such choice either fix a price on the said overplus land to be paid by the said possessor or owner, or within the same time appoint where it shall be taken off for the proprietary, his heirs or assigns, in one entire and convenient piece at an end or outside; saving to the said possessor or owner his improvements and best conveniences.

But in case the said persons so chosen, as aforesaid, shall refuse or neglect to fix a price on the said overplus, or to cut off the same within the time hereinbefore limited, then the party aggrieved may apply to the justices at the court of common pleas for the county where the land lies, who are hereby empowered and required to grant their order in that behalf to five indifferent and disinterested persons of the neighborhood, requiring them, or any three of them, to perform what the said four persons had refused or neglected to do.

[Section IX.] And be it further enacted, That where any overplus shall be taken off as aforesaid, the proprietary or his commissioners shall confirm the residue to the possessor or owner thereof, his heirs or assigns, saving the rights of all others; but if the proprietary, or his commissioners or agents shall refuse or neglect to appoint two persons on his behalf as aforesaid, or if after the said overplus be taken off, shall refuse to confirm the residue to the possessor or owner thereof, his heirs or assigns, within six months after such overplus is taken off, as aforesaid, and application made for the same by such owner or possessor, then and in every such case all such possessors or owners respectively shall stand and be seized or possessed of the whole tract, as if no such resurvey had been made. But if any of the said possessors or owners of lands so resurveyed as aforesaid, shall refuse or neglect to choose two men in his behalf, then the persons so as aforesaid to be chosen by the proprietary or his commissioners shall within the time aforesaid appoint where the overplus shall be taken off, saving the owner's improvements and best conveniences, as aforesaid.

And if the owner of any such lands as have been resurveyed as aforesaid, does not reside in this province, and no person in

the actual possession of those lands, then and in every such case the proprietary or his commissioners may appoint two men of the next neighborhood to such lands, who are hereby empowered to appoint where the overplus of such lands shall be taken off as aforesaid, leaving to every such owner the full quantity belonging to him by purchase and location there, together with the allowances for roads and difference of surveys, and saving the improvements and conveniences, as aforesaid.

And in all cases where any such overplus shall be cut, as aforesaid, in pursuance of this act, the proprietary or his commissioners or agents shall have full liberty to dispose of and grant such overplus to any person or persons that he or they shall think fit; anything in this act contained, or in any other law, to the contrary thereof in anywise notwithstanding.

And if upon the said resurveys any tract hath been found deficient in the number of acres for which it was at first granted after allowances made, as aforesaid, all such deficiencies shall be made good by the proprietary, his heirs or assigns, after the same rate he or they shall receive for such overplus land in that neighborhood.

Provided always, That nothing herein contained shall be deemed or construed to take off any overplus land out of any tract, the possessor or owner whereof has right by his purchase to take up more land over and above the quantity such tract was laid out for.

Provided also, That where any lands have been resurveyed, and such allowances for roads, barrens and difference of surveys, have been made and allowed as aforesaid, the possessor or owner thereof shall not pay any quit-rents for such allowance.

[Section X.] And be it further enacted, That for all lands hereafter to be taken up or surveyed in this province, the surveyor that lays out the same, shall allow for roads and barrens after the rate of six acres for every hundred acres to the owner of such lands, for which said allowances of six per cent no rents shall be paid to the proprietary, his heirs or assigns.

Passed June 7, 1712. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed May 28, 1715, Chapter 208, and July 7, 1759, Chapter 447.

CHAPTER CLXXXIV.

AN ACT FOR THE BETTER ASCERTAINING THE PUBLIC DEBTS AND
COLLECTING THE ARREARS OF COUNTY LEVIES.

Whereas several acts of Assembly have been made, directing the manner of allowing public debts and for raising of county levies in this province, by virtue whereof divers sums have been paid; but complaint is made, that a great part either remains ungathered or is detained by the collectors, receivers or treasurers, especially in the county of Philadelphia, and great part of the county debts, not being duly allowed, remains still unpaid:

[Section I.] Be it therefore enacted, by Charles Gookin, Esquire, by the Queen's royal approbation, Lieutenant-Governor under William Penn, Esquire, Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province, in General Assembly met, and by authority of the same, That where debts are due from the respective counties of this province and city of Philadelphia to any person or persons for their service in Assembly, they shall not hereafter be obliged to exhibit the notes or certificates of their service to be allowed by the justices, grand jury and assessors, as heretofore has been used, but shall or may produce to the respective treasurers of the county or city for which they served, their notes or certificates, signed by the Speaker of the Assembly, by order of the House, showing the number of days they served on every Assembly; all which said notes or certificates, and all other notes and accounts heretofore exhibited, as the said acts direct, whether allowed or not, if noted by the clerk of the respective county court, shall be paid by the said counties and city, which being forthwith entered by the said respective treasurers in a book which by the said act for raising county levies they are obliged to keep, and when the said notes or orders are so entered, the treasurers are hereby required to endorse the said entry on the back side of all

such notes, and to deliver the same to the owners thereof or their order.

[Section II.] And be it further enacted by the authority aforesaid, That where any person or persons to whom money is or shall be due, either for service in Assembly or for money laid out for destroying wolves or other public service, or disbursements formerly exhibited as aforesaid or hereafter to be exhibited and allowed a county or city charge, and endorsed as aforesaid, have been or shall be assessed or rated in county or city levies, they shall not be liable to pay the collector of such assessments, but the said collectors in such cases are hereby required to defalk or discount with such creditors their respective assessment, and take their notes upon the said treasurer, who is hereby obliged to accept the same as ready money for so much of the debt or sum due as shall be so defalked; and in case such debt surmount the assessment, and the overplus be not paid by the treasurer, as the said acts direct, the like course shall be taken by the collector of the next assessment, and so successively until the whole be fully paid, which note shall be delivered to the respective treasurer, together with the money or species to be collected within the time limited to bring in the said assessment; and that all warrants and orders which have been or shall be granted to make distress for non-payment of county or city levies, shall not be executed upon any of the said creditors; but if any collector or other person or persons, by this or the said former acts appointed to allow, in discount, the said public debts, shall refuse or neglect the doing thereof, or shall presume to make distress for the same, contrary to the true meaning of this act, [he or they] shall forfeit and pay the sum of twenty pounds for any one offense, the one-half thereof to the party grieved and the other half to the governor, to be recovered by action of debt, bill, plaint or information in any court of record in this province, where no essoin, protection or wager of law and but one imparlance shall be allowed.

[Section III.] And be it further enacted by the authority aforesaid, That any two or more of the assessors of the respective counties, where the said levies are in arrear, shall issue

forth their warrants to such collectors as they shall appoint requiring them to levy all such moneys formerly assessed, as shall appear to the said assessors not to have been already paid; and the said respective assessors, for the time being, are hereby required to assess all and every persons and estates within their districts which ought to have been and were not formerly assessed, according to the true intent of the said acts; all which money, so assessed, shall be collected as county levies are or ought to be collected by virtue of the said acts; and if any person or persons will not pay the said sums formerly assessed or to be assessed as aforesaid, after demand thereof made, the same shall be levied by distress and sale of goods or imprisonment of the offenders' bodies, as the said acts direct in such cases.

[Section IV.] And be it further enacted [by the authority aforesaid,] That if any such collector, or any other collector or collectors of county or city levies for the time being shall refuse or neglect to pay unto the respective treasurers the several sums assessed or to be assessed by virtue of this act or of the said acts for raising county levies, and mentioned in the duplicates to them to be delivered from time to time according as the said assessors shall order or appoint, upon complaint and proof made by any of the said treasurers (who are hereby required in case of such neglect or refusal to make complaint accordingly) before any one or more of the justices or magistrates of the county or city where such complaint is made, [he or they] shall be fined in the sum of five pounds, whereupon the said justices or magistrates are hereby empowered and required in such case to issue warrants, under their hands and seals, to the respective sheriff where such offense is, requiring him forthwith to levy the said fine together with the whole and every of the sums assessed and mentioned in the said duplicates, or so much thereof as shall remain unpaid to the said treasurers respectively, by distress and sale of such collector's goods and chattels; and if goods and chattels of such collector sufficient to satisfy the said fine and sums so unpaid, with reasonable charges of distress and sale cannot be found, then to take the body of such collector and him safely keep in prison until he

shall satisfy the same; and every sheriff to whom such warrant is directed, is hereby required to execute the same according to the tenor thereof; and every warrant issued forth, in pursuance of this act, empowering to make distress or take the body of any person, shall extend and be in force against any person fined or assessed as aforesaid, wheresoever found in any part of this province; and upon such distress and sale of goods, the overplus (if any) shall be returned to the owner, all necessary charges being first deducted.

And such collector distrained on or imprisoned respectively, in order to reimburse himself shall, by virtue of this act, without any further or other warrant, have power to collect and distrain in manner aforesaid, to his own use, from any person or persons, for the whole or so much as shall remain unpaid of such person's assessment as shall have refused or neglected to pay the same within the time limited by the said magistrates and assessors, by virtue of this act (it being first by such collector duly demanded). And the sheriff shall deliver to the said treasurers respectively all such sums as by virtue of this act he shall be obliged to demand, receive or distrain from any such refusing or negligent collector, within twenty days after the receipt of such warrant to him directed; and the respective treasurers' receipt shall be a sufficient discharge to any such sheriff.

Provided always, That all such collectors or receivers as have accounted with the respective treasurers of the said former levies, for any sum or sums of money that were received and paid by virtue of the said acts, and have or ought to have their discharges from such treasurer, shall not be accountable for any of the sums so accounted [for] as aforesaid.

Passed June 7, 1712. Confirmed by the Queen in Council, February 20,
1713-14. See Appendix III, Section II, and the Act of Assembly
passed February 22, 1717-18, Chapter 231. Repealed by the Act of
Assembly passed March 20, 1724-25, Chapter 284.

CHAPTER CLXXXV.

AN ACT FOR RAISING MONEY ON THE INHABITANTS OF THE CITY OF PHILADELPHIA FOR THE PUBLIC USE AND BENEFIT THEREOF..

Whereas there is great occasion of a public stock to pay the just debts and defray the necessary charges of the said city, for building a workhouse of correction, building and repairing free wharves and bridges, pitching, paving and regulating the highways, streets and watercourses, making and erecting new and convenient stalls and shambles to accommodate butchers and all others that bring goods to sell in the said city; and forasmuch as the incorporating the said city hath so far limited the magistracy of the county of Philadelphia that the laws for raising of county levies cannot, without the help of this act, be so aptly and effectually put in execution within the said city as before, and the rule and government of the said city requiring a charge which may not so immediately concern the rest of the county:

[Section I.] Be it, therefore, enacted by Charles Gookin, Esquire, by the Queen's royal approbation, Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by authority of the same, That from henceforth the inhabitants and freeholders of the said city of Philadelphia, who are qualified by the laws of this province to elect or be elected members of Assembly, at the time and place by law appointed or to be appointed for electing their representatives to serve in Assembly, or the day following, unless it happen on a First day and then on the day next ensuing, shall or may choose six of the said inhabitants and freeholders to be the assessors of the said city; and when so chosen the sheriff of the said city shall take their names in writing, under the hands and seals of at least six more of the said inhabitants and freeholders, and return or certify the same to the mayor, recorder and aldermen of the said city, for the time be-

ing at their general sessions of the peace next after such election.

[Section II.] And be it further enacted by the authority aforesaid, That the mayor, recorder and aldermen of the said city, at their general sessions of the peace, to be held in the month called April, yearly or oftener if occasion be, with the assistance of the said assessors for the time being or any four of them, shall calculate the public debts and charges of the said city, allowing all just dues and demands wherewith the persons and estates within the said city are or may be chargeable from time to time; as also shall calculate what sum or sums of money may be needful and necessary to be raised upon the persons and estates aforesaid, from time to time, for the building, repairing, regulating or amending of any houses, bridges, wharves, water-courses or other uses, for the public service and benefit of the said city; and shall also agree and settle, from time to time, as occasion may require, what sum or sums of money or other effects shall be applied to the service of every particular matter or thing which they, or the major part of the said magistrates, with any four of the said assessors, shall agree on to be necessary to be raised for the year ensuing; which said respective sums, with the particular uses whereunto they shall be agreed on to be appropriated as aforesaid, shall be entered in a book to be kept for that purpose by the clerk of the peace of the said city, who is hereby obliged to make such entry from time to time, for which he shall be allowed what the said magistrates and assessors shall think reasonable; and that the said assessors shall, within six weeks after every such calculation, make or lay a rate or assessment upon themselves and all other persons and estates aforesaid, to and for the aforesaid uses, by a poll and pound rate, according to the manner and method now used in making assessments in this province for raising of county levies.

[Section III.] And be it further enacted by the authority aforesaid, That the constables of the said city shall bring in returns in writing to the said assessors, within five days after notice given them, of the names and estates of all persons within their wards; for which they shall be allowed two pence per

pound upon every sum assessed in their said respective wards; which assessment being equally and impartially laid and signed by at least four of the said assessors shall be allowed and confirmed by the said mayor, recorder and any two of the aldermen for the time being, under their hands and seals, and shall be paid by every person and estate so assessed upon demand made thereof by the collectors, who shall by the said assessors, or in case they neglect then by the said mayor, recorder and aldermen, be appointed to gather the same, and in case of refusal or neglect, shall, by warrant under the hands and seals of any three or more of the said city magistrates, be levied by distress and sale of the goods of every person so assessed and not paying the same within fourteen days after demand; rendering the overplus of the value of the goods so distrained to the owner and owners thereof, deducting the charge of such distress; but for want of distress the said assessments to be levied by imprisonment of the person so refusing or neglecting to pay as aforesaid.

Provided always, That no such assessment or assessments to be made in any one year shall exceed the value of two pence in the pound of the clear value of the lands, tenements, hereditaments and personal estate so assessed; and four shillings per head, in proportion to one penny per pound tax, on all single men, inhabitants of the said city not otherwise rated by this act.

Provided also, That those who are not ratable or liable to be taxed for relief of the poor, within the said city, shall not be rated or assessed by this act.

[Section IV.] And be it further enacted by the authority aforesaid, That the said assessors shall appoint a treasurer in the said city, who shall keep a distinct book containing a particular account of all the rates and assessments made as aforesaid, as also all disbursements and payments, which he shall make by order of the mayor, recorder and any four of the said city magistrates, whose order to the said treasurer from time to time shall be sufficient for the payment of such moneys as shall come into his hands from the said collectors.

[Section V.] And be it further enacted, That the said treas-

urer shall, on the twenty-fifth day of the month called March, yearly or oftener if occasion be, bring in his accounts and settle and make them up before the said magistrates and assessors, or such as they shall appoint; at the auditing of which accounts, all or any of the said inhabitants and freeholders that are willing may be present. And the said treasurer shall have for his trouble therein as much as the said magistrates and assessors shall agree to allow him. And the said assessors shall be allowed three pence per pound for all the sums levied and to be collected, by virtue of this act.

[Section VI.] And be it further enacted, That the money and effects gathered and received by the said collectors within their respective limits, by virtue of this act, shall from time to time be duly paid to the said treasurer or treasurers, whose receipts shall be the collectors' sufficient discharges.

Provided always, That the said collectors shall forthwith after every such assessment made as aforesaid give notice to the said freeholders and inhabitants of the said city, or in their absence to some or one of their families or neighbors, of the respective sums they are rated and acquaint them with the day and place of appeal, in case they shall be aggrieved with such assessment; which said day of appeal shall be at some convenient place in the said city, to be appointed by the assessors that laid the said tax, the same day four weeks after the said assessment is laid. And the said assessors shall have due regard to all such appeals, and thereupon to abate or increase the said assessment, according as the appellants shall appear to be worth, either upon their own attest, or proof of others.

[Section VII.] And be it further enacted, That from and immediately after the said appeals have been heard and considered as aforesaid, it shall and may be lawful to and for the said collectors to proceed in collecting and levying the said rates and assessments for the collecting whereof they shall retain and keep in their hands six pence in the pound of all such money as they shall so collect, and no more. And if the said collectors, or any of them shall refuse or neglect to collect the said assessments respectively or any part thereof, and to pay the same in to the treasurer, within three months after the said

appeals have been heard and considered as aforesaid, every such collector so refusing or neglecting shall forfeit and pay to the said treasurer, for the use of the said city, the sum of five pounds, and shall also pay all the arrearages of such assessments which he was appointed to collect, which shall be levied by a warrant under the hand of the mayor for the time being, and seal of the said city, directed to the sheriff, who is hereby empowered and obliged to execute such warrant upon the goods and chattels of the party so offending. And in case goods and chattels sufficient to make satisfaction cannot be found, then to imprison such offender till payment is made. And every collector being so distrained on and having made full satisfaction as aforesaid is hereby empowered, without any other warrant, to distrain, for his own use, upon all such as shall refuse or neglect to pay the said arrearages.

[Section VIII.] And be it further enacted, That if at any time the inhabitants and freeholders of the said city shall neglect to choose assessors as aforesaid, or if when chosen they do not attend their service as above directed, then the mayor, recorder and aldermen of the said city for the time being, together with the grand inquest of the said city, may and shall perform the respective offices and duties of the said assessors, as fully and amply as they might or could do, by virtue of this act.

Provided always, That nothing herein contained shall exempt the inhabitants of the said city from being rated or assessed in proportion with the inhabitants of the county of Philadelphia, to pay what is or shall be due for making and repairing of bridges in the Queen's high road, over any rivers or water where the tide flows, within the said county, or from paying their proportion of Assemblymen's wages due or to be due from the inhabitants of the said county from time to time, over and besides their paying the two members of Assembly chosen to represent the said city; or from paying for the moiety of the arrearages now due for wolves' heads, wherewith the said county shall be justly chargeable. But that all persons and estates as aforesaid, within the said city, shall be liable to pay the respective rates hereafter to be assessed on

them from time to time, for the purposes aforesaid, anything herein contained to the contrary notwithstanding.

Passed June 7, 1712. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed February 9, 1750-51, Chapter 389; September 15, 1756, Chapter 411; February 17, 1762, Chapter 479; March 9, 1771, Chapter 636, and March 14, 1777, Chapter 746. Supplied by the Act of March 11, 1789, Chapter 1394.

CHAPTER CLXXXVI.

AN ACT FOR THE BETTER GOVERNMENT OF THE CITY OF PHILADELPHIA.

For the better government of the said city:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation, Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province, in General Assembly met, and by authority of the same, That the common carters thereof shall assist with their carts and teams four days in every year (if thereunto required by the mayor) in repairing the streets, wharves and highways of the said city and precincts thereof, under the penalty of ten shillings per day in the case of non-performance.

And that any person riding a gallop in the built part of the streets of the said city, shall forfeit and pay for every offense five shillings.

And that any person trotting with their teams or drays, in the streets aforesaid, shall forfeit and pay for every offense ten shillings.

And that no person inhabiting the said city, keeping either dog or bitch, shall suffer the same to go at large after the fifteenth day of November next, under the penalty and forfeiture of five shillings for every offense, and such dogs liable to be killed by order of the magistrate.

And that any constable refusing or neglecting his duty to watch, shall forfeit and pay for every offense ten shillings. And every other person refusing or neglecting their duty therein, shall forfeit and pay two shillings and six pence for every offense.

And that no person shall obstruct or annoy the streets of the said city with rubbish, filth or otherwise, under the penalty of forfeiting five shillings for every offense, unless the same be removed within twenty-four hours after notice given; whereof the constables in their respective wards are required to give notice to the next magistrate, under the penalty of paying one shilling for every omission or neglect.

And that no master or commander of any merchant ship or vessel shall fire, or suffer to be fired, on board his vessel, any ordnance or other gun after eight o'clock in the evening, nor before daylight in the morning, without license from the governor first had, under the penalty of ten shillings for every offense. Nor shall any person presume to fire any gun, guns or small arms within the built part of the said city, without special license from the governor, or some magistrate of the said city for so doing, under the penalty of two shillings and six pence for every offense.

And if any negro be found in any of the before-recited disorderly practices or other misbehaviors, any one justice may commit such negro to prison, or cause them forthwith to be whipped, not exceeding twenty-one lashes for any one offense.

Which fines and forfeitures respectively, shall be forthwith paid by the person or persons offending, upon due proof made by one or more credible evidence before the mayor or any one magistrate of the said city, otherwise the offender's body shall be committed to prison, there to remain without bail or mainprise until the same be fully satisfied and paid.

[Section II.] And be it further enacted by the authority aforesaid, That the mayor and commonalty of the said city shall have full power to employ the poor thereof, and to compel vagrants to labor; and shall regulate the shambles, recover and receive the market stall-rents of all persons using the same; and

wharfage of such as use the public wharves of this city (the inhabitants of this province excepted).

And for the easier recovery of small debts and settling a more regular course of proceeding in the execution of a law of this province, entitled "An act for determining debts under forty shillings,"¹ the mayor or any one magistrate, with the recorder of the said city, may hold a court twice in every month or oftener if need be, and shall have full power to determine all debts not exceeding forty shillings.

Provided always, That the whole charges of proceedings in the said courts shall not exceed the fees by law allowed in such cases.

Passed June 7, 1712. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed May 28, 1715, Chapter 211; August 26, 1721, Chapter 245; August 19, 1749, Chapter 379; March 14, 1761, Chapter 459, and March 26, 1762, Chapter 480.

CHAPTER CLXXXVII.

AN ACT CONCERNING THE REGISTER-GENERAL'S OFFICE.

Whereas by a law of this province made in the year one thousand seven hundred and five, entitled "An Act concerning the probates of written and nuncupative wills, and for confirming devises of land,"² it is amongst other things enacted that there should be an officer called register-general, to be commissionated by the governor from time to time, for the probate of wills and granting letters of administration in this province; which register-general should keep his office at Philadelphia and should from time to time constitute a sufficient deputy to officiate for him in each of the other counties of this province; but inasmuch as no register has been commissionated and deputies constituted in each county, as the said act directs:

[Section I.] Be it, therefore, enacted by Charles Gookin, Esquire, by the Queen's royal approbation, Lieutenant-Governor

¹ See Chapters 36 and 130.

² See Chapter 133.

under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said proprietary and governor-in-chief or his lieutenant-governor for the time being shall, on or before the first day of the month called August next, commissionate a register-general for the probate of wills and granting letters of administration in this province. But in case of the removal of such register-general by death or otherwise, then another fit person shall, within three weeks after such removal, be commissionated as aforesaid, in the room of the register-general so removed, who shall keep his office at Philadelphia as the said act directs and shall from time to time constitute a sufficient deputy to officiate for him in each of the said other counties; who, being by him deputed, shall be and are hereby empowered to take probate of wills and grant letters of administration in the respective counties, and to have a common seal according to the tenor and direction of the said act.

Provided always, That if the said proprietary or his lieutenant-governor shall refuse or neglect to commissionate a register-general from time to time, as this act directs, then the commissioners, agents or stewards of the said proprietary, his heirs or assigns, who are or shall be empowered to act for him or them in matters relating to the seigniory or propriety of this province, shall commissionate a register-general, within three weeks after the time hereby appointed for the governor to do the same. But if the said commissioners, agents or stewards shall refuse or neglect to do their duty therein, according to the direction of this act, then the justices of the court of common pleas for the said county of Philadelphia for the time being or the major part of them shall, as often as there may be occasion, commissionate the said officer called register-general at Philadelphia, who shall be and is hereby empowered and required to officiate as fully and effectually as any register-general ever could or can do, according to the powers granted by the royal charter or by virtue of the said act.

[Section II.] And be it further enacted by the authority

aforesaid, That before any register-general or his deputy shall enter upon their respective offices he shall find one or more sufficient sureties together with himself to become bound to the said proprietary, his heirs and assigns, proprietaries of this province, in a bond of the penalty of five hundred pounds, for the true and faithful execution and discharge of his office, and for the delivery of the records and other writings belonging to the same by him, his heirs, executors or administrators to his successor in the said office, whole and undefaced; which said bonds shall be entered on record in the office of the prothonotaries or clerks of the said court of common pleas in the said respective counties, to be safely kept by them and to be made use of as the said act directs.

[Section III.] And be it further enacted, That where objections are made or caveats entered against the proving of any will or granting letters of administration, and where there is or shall be occasion to take the final accounts of executors or administrators, or make distribution of decedents' estates, the register-general and his deputies, respectively, shall, in every such case, call to their assistance two or more of the justices of the said court of common pleas for the county where they are concerned, who are hereby empowered and required to give their assistance accordingly to decide the said caveats and matters in controversy, settle the said accounts, make distributions, and do all such other judicial acts as do or shall belong or ought of right to be done by any person or persons having power by law to take probate of wills and grant administration.

And when the register-general or his deputies for the time being are, by the duty of their office, required to administer oaths in any case, and shall happen to be such who for conscience' sake cannot administer oaths, they shall apply to some of the said justices in the proper county who are hereby empowered and required to administer the same, which shall be as effectual in law as if it had been administered by the register-general or his deputies respectively.

Provided always, That nothing in this act contained shall extend or be construed to extend to annihilate or make void the above-recited act or any part thereof, save only what is

hereby expressly altered and supplied, but that the same act, in every other respect, shall remain and be in full force and virtue as the same ought to have been in, if this act had not been made, anything hereinbefore contained to the contrary in anywise notwithstanding.

Passed June 7, 1712. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed March 27, 1712-13, Chapter 197. Supplied by the Constitution of 1776, Section XXXIV, and the Act of Assembly passed March 14, 1777, Chapter 748.

CHAPTER CLXXXVIII.

AN ACT FOR EMPOWERING RELIGIOUS SOCIETIES TO BUY, HOLD AND ENJOY LANDS, TENEMENTS AND HEREDITAMENTS.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That it shall and may be lawful to and for all religious societies or assemblies and congregations of Protestants within this province to purchase any lands or tenements for burying-grounds and for erecting houses of religious worship, schools and hospitals, and by trustees or otherwise, as they shall think fit, to receive and take grants or conveyances for the same, for any estate whatsoever, to and for the use or uses aforesaid, to be holden of the lord of the fee, by the accustomed rents and services.

[Section II.] And be it further enacted by the authority aforesaid, That all sales, gifts or grants made to any of the said societies, or to any person or persons in trust for them or any of them of, for or concerning any lands, tenements or hereditaments within this province, for and in any estate whatsoever, shall be and are by this act ratified and confirmed, accord-

ing to the tenor and true meaning thereof, and of the parties concerned therein.

And where any gifts, legacies or bequests have been or shall be made by any person or persons to the poor of any of the said respective religious societies, or to or for the use or service of any meeting or congregation of the said respective societies, the same gifts and bequests shall be employed only to those charitable uses or to the use of those respective societies or meetings, or to the poor people to whom the same are or shall be given or intended to be given or granted, according to what may be collected to be the true intent and meaning of the respective donors or grantors, notwithstanding any failure or defect in their gifts, grants or bequests.

Passed June 7, 1712. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed May 28, 1715, Chapter 203.

CHAPTER CLXXXIX.

A SUPPLEMENTARY ACT TO A LAW ABOUT THE MANNER OF GIVING EVIDENCE.

Whereas by an act of this province, passed by Governor Fletcher in the year one thousand six hundred [and] ninety-three, entitled "The law about the manner of giving evidence and against such as lie in conversation," there is no provision made for qualifying jurors, magistrates and other officers in this government, which (by reason of a majority of the freeholders thereof are religiously principled against taking and administering an oath) will inevitably retard and very much obstruct the administration of justice, unless the same be remedied by law:

[Section I.] We therefore humbly pray that it may be enacted, and be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the ad-

vice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act all persons (who for conscience' sake cannot take an oath) being obliged to give evidence in any case may be admitted so to do before any judicial authority in this province, by solemnly promising to speak the truth, the whole truth and nothing but the truth, which evidence shall be good and valid in law.

Provided always, That where any person giving evidence in such sort and manner as is above directed, shall be found willfully and corruptly guilty of giving false evidence in any case whatsoever, such person or persons, being legally convicted thereof, shall be liable to and suffer all the pains and penalties as by the laws of Great Britain are due to persons convict of willful and corrupt perjury, and shall forever after be incapable of bearing any office or giving evidence in any court or before any judicial authority in this province.

[Section II.] And be it further enacted by the authority aforesaid, That when at any time any person or persons shall be commissionated by the governor for the time being or otherwise appointed to serve as magistrates or other officers in any public office, place or station in this government, who are religiously persuaded against taking or administering an oath, such magistrate or officer shall be admitted to serve therein, by solemnly promising faithfully and truly to perform the same, and shall officiate accordingly. And all persons being legally summoned or required to serve on inquests or juries in this province, who for conscience' sake cannot take an oath, may be qualified by solemnly promising well and truly to try or due inquiry make, as the case may require, in all such matters and things as they shall or may respectively have in charge, under the same penalties as aforesaid.

[Section III.] Provided always and be it further enacted, That nothing herein contained shall be construed to prohibit or hinder any person to officiate in any post or office in this province, or to give evidence in any court, matter or case whatsoever, or to serve on any jury or inquest, who does not scruple to take an oath according to the law of England, or to take

the affirmation allowed by the law of England to Quakers, pursuant to the Queen's royal order in council, lately extended to this province, but that every such person may have free liberty to take the same, subject nevertheless to the same pains and penalties as by this act is [sic] before prescribed, anything herein or in any other act contained to the contrary notwithstanding.

Passed June 7, 1712. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed May 28, 1715, Chapter 204.

CHAPTER CXC.

AN ACT FOR ESTABLISHING THE LOWER FERRY ON THE RIVER SCHUYLKILL.

Whereas at the instance of many of the substantial inhabitants of the counties of Philadelphia and Chester, a convenient highway or road has been laid out to the lower ferry, commonly called Benjamin Chambers' ferry upon Schuylkill River, by order of the governor and council, in the year one thousand six hundred [and] ninety-seven, for the accommodation whereof the said Benjamin Chambers was encouraged to undertake the settling the said ferry, at a great charge, which must still be liable to great expense and yearly reparations too much for any person to expend upon an uncertain term. And the said Benjamin Chambers, having made application for the better establishment of the said ferry and preventing any other from being set up near the same for a certain term of years:

[Section I.] Be it therefore enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, true and absolute Proprietor and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same,

That the said Benjamin Chambers, his executors, administrators and assigns, shall, for the space of twenty-one years next ensuing, receive the toll for passage or ferriage over the said river Schuylkill, of all persons (the proprietor and his lieutenant-governor and their attendants excepted) as follows, and no more: (That is to say) for each horse and rider and back-burden, two pence; for each cart or wagon loaded, one shilling, and if unloaded six pence; for a sled loaded or unloaded, one penny; for each horse, bullock, ox or cow, swam or boated, three halfpence per head; for each foot passenger one penny; for each live sheep one halfpenny; for each live hog one penny; for a coach or chariot one shilling, and for a chaise four pence.

Provided always, That he, the said Benjamin Chambers, his executors, administrators and assigns shall complete and fully finish and then keep and maintain the causeways and landings on each side of the said river, in good and sufficient repair and order, fit for carts; provide and maintain substantial boats and able hands, and give, by him or themselves or servants, from time to time, due and constant attendance thereon, under the penalty of being fined to the government at the discretion of the county court, in any sum not exceeding twenty pounds for the first offense, to be recovered in manner hereafter expressed; and for the second offense to be displaced or removed by the said county court, from keeping the ferry and receiving the benefits thereof, being first legally convicted of such failure or default; and in such case the proprietor, William Penn, Esquire, his heirs and assigns, or his or their commissioners of property, for the time being, shall appoint another person to keep the said ferry under the same restrictions and limitations as herein is prescribed and directed.

And for the better carrying on the said ferry and encouragement in the premises:

[Section II.] Be it further enacted by the authority aforesaid, That no person or persons whatsoever shall or may presume to erect or keep a ferryboat or canoe for carrying passengers, cattle or horses over the said river for wages or hire, within the distance of one mile either above or below the said ferry for the space of twenty-one years, under the penalty of

twenty pounds for every such offense, one moiety or half part thereof for and towards the support of this government, and the other half to the said Benjamin Chambers or his assigns, to be recovered in any court of record in this province by bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed.

Passed June 7, 1712. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II.

CHAPTER CXCI.

AN ACT FOR ESTABLISHING AND REGULATING OF FERRIES OVER DELAWARE RIVER AND NESHAMINY CREEK.

Whereas it is of absolute necessity that ferries be erected and established over the river Delaware and Neshaminy Creek, for the better accommodation of passengers traveling in this province:

[Section I.] Be it therefore enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be erected and kept the several ferries following: (That is to say) at the town of New Bristol one, and near the Falls of Delaware one, and at the landing of William Williams one; also at John Baldwin's, upon Neshaminy Creek one; all which ferries shall be kept at the respective places aforesaid by such persons as are hereinafter named and appointed, their executors, administrators and assigns, respectively, who shall and are hereby required at all convenient times to maintain and keep the said ferries with good and sufficient boats and men, as shall from time to time be needful for the carriage of all persons, cattle, horses and goods which are to be carried

over the said river Delaware or Neshaminy Creek, at the several and respective ferries aforesaid. And also, that each and every the said persons hereafter named and appointed, and their successors, shall at all times hereafter (during the time limited by this act) by him or themselves or servants give constant and due attendance on his or their said ferries respectively; and each of the said persons shall have and receive for ferriage over, at each of the several places aforesaid, of all persons (the proprietary and his lieutenant-governor and their attendants excepted) the rates and prices following: (That is to say) at the ferry of New Bristol, for every single passenger on foot, four pence; but if three be carried at once, three pence for each; and if any greater number, two pence halfpenny each; for every single horse and rider, one shilling; and when any greater number together, nine pence for each; for every single ox, cow or heifer, one shilling and three pence; and when any greater number together, one shilling for each; for every single sheep three pence; and when any greater number together, two pence for each; for every single hog, six pence; and when a greater number together three pence halfpenny each, and no more: at the ferries at the Falls and William Williams', for every single horse and rider, nine pence; and when any greater number shall be carried together, seven pence halfpenny for each; for every single passenger on foot, four pence; and when a greater number together, three pence for each; for every single ox, cow or heifer, one shilling, and when a greater number is carried together, ten pence for each; for every single sheep, three pence, but when a greater number, one penny halfpenny for each; for every single hog, five pence, and when a greater number, three pence per head, and no more: at the ferry over Neshaminy, for every single horse and rider, ox, cow or heifer, four pence, but if more are carried at one time, three pence each; for every foot passenger, two pence; for every sheep, one penny, and for every hog, two pence and no more; and if any of the said persons hereby appointed shall not maintain and keep such sufficient boat or boats, as aforesaid, with sufficient and able hands, or shall not give constant and due attendance on the service of the said ferries, respectively, or shall

exact or demand any greater or other fees for the carriage of any passengers, cattle, horses, hogs or sheep, than is hereinbefore limited and appointed, then and in every such case he shall forfeit and pay the sum of five pounds lawful money of this province for every such offense, one moiety thereof to the governor for the support of the government of this province, and the other moiety thereof to the party grieved, who shall sue for the same, by bill, plaint or information in any court of record in this province, wherein no essoin, protection or wager of law shall be allowed.

[Section II.] And be it further enacted by the authority aforesaid, That John Sotcher of Pennsbury in the said county of Bucks, yeoman, is hereby appointed and shall be the person who shall keep the ferry at Bristol. And that John Clark of the said county, yeoman, is hereby appointed and shall be the person who shall keep the ferry at or near the Falls. And that William Williams of the same county, yeoman, is hereby appointed and shall be the person who shall keep the ferry at his own landing, as aforesaid. And that John Baldwin of New Bristol, in the county of Bucks, is hereby appointed and shall be the person who shall keep the ferry at Neshaminy Creek. And each and every of them, and their executors and assigns, respectively, shall or may hold and enjoy the same for and during the term of seven years from the publication of this act, if they shall respectively so long well behave themselves therein. And that no other person or persons shall hereafter, for and during the said term of seven years, presume to carry any passengers, horses, cattle, sheep or hogs for any wages, hire or reward whatsoever, over the said river Delaware, from this province to New Jersey, or over Neshaminy Creek, as aforesaid, within the space of two miles either above or below either of the aforesaid ferries, under the penalty of five pounds forfeiture for every offense, one moiety thereof to the governor, for the support of the government of this province, and the other moiety thereof to such person who shall from time to time be appointed as aforesaid, to keep such of the said ferry or ferries as shall be within the distance above limited, who shall sue

for the same by bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed.

[Section III.] And be it further enacted by the authority aforesaid, That in case any of the persons above named and appointed for keeping the aforesaid ferries respectively, shall refuse to provide boats and keep the said ferries as by this act directed and allowed, then it shall and may be lawful for the proprietor, William Penn, Esquire, his heirs or assigns, or his or their commissioners of property, for the time being, to appoint any other persons for that purpose, under the same restrictions and limitations hereinbefore expressed; and such person or persons, so appointed, shall or may be accommodated at any the aforesaid places with a suitable house or so much land convenient to erect one on (not exceeding half an acre) at such rates as the county court and grand jury shall adjudge reasonable, to be paid by the undertaker to the owner thereof, which land so assigned as aforesaid, with the improvements shall be deemed and held as the estate of the improver and occupier thereof, his heirs and assigns; and shall be liable only to be alienated by the county court and grand jury on such reasonable allowances as they shall think fit as aforesaid, to any other person, for the same uses as is above expressed, any law, usage or custom to the contrary in anywise notwithstanding.

Provided always, That this act shall continue in force for and during the term of seven years from the publication thereof, and no longer.

Passed June 7, 1712. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Acts of Assembly passed May 31, 1718, Chapters 233 and 234; May 9, 1724, Chapter 277; May 10, 1729, Chapter 305, and September 6, 1785, Chapter 1172.

CHAPTER CXII.

AN ACT TO PREVENT THE IMPORTATION OF NEGROES AND INDIANS INTO THIS PROVINCE.

Whereas divers plots and insurrections have frequently happened, not only in the islands but on the mainland of America, by negroes, which have been carried on so far that several of the inhabitants have been thereby barbarously murdered, an instance whereof we have lately had in our neighboring colony of New York; and whereas the importation of Indian slaves hath given our neighboring Indians in this province some umbrage of suspicion and dissatisfaction; for prevention of all which for the future :

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act, upon the importation of any negro or Indian, by land or water, into this province, there shall be paid by the importer, owner or possessor thereof, the sum of twenty pounds per head for every negro or Indian so imported or brought in (except negroes directly brought in from the West India Islands before the first day of the month called August next) unto the proper officer hereinafter named, or that shall be appointed according to the direction of this act to receive the same.

[Section II.] And be it further enacted, That all masters of vessels or others bringing in or to this province, by land or water, any negro or Indian, shall forthwith make entry and give a true account to the said officer of the number by him or them imported or brought in, and to whom they respectively belong. And if any person shall bring in by land or put on shore any negro or Indian before due entry made as aforesaid

and the said duty paid (or secured to be paid within thirty days) to the said officer and his permit obtained for landing or bringing in the same, all such negroes and Indians shall be seized and sold by the said officer for the time being, and the moneys arising thereby shall be by him paid to the provincial treasurer, for the uses hereinafter directed.

Provided always, That nothing in this act contained shall prohibit any person complying herewithal, who shall at any time import or bring in any number of negroes or Indians into this province to export the same again within the space of twenty days after entry made and the duty paid, or secured to be paid as aforesaid, but in such case upon application made by the party concerned to the said officer for the time being, the duties so paid or secured shall be by him repaid to such person or persons, and his or their obligation for the same canceled, excepting only two shillings and six pence per head, which is hereby allowed to the said officer for his trouble therein.

Provided also, That all such negroes or Indians for which such deductions may be allowed, shall be actually and *bona fide* forthwith shipped off or sent out of this province, so as never to return again without complying anew with the directions of this act, otherwise all such negroes and Indians shall be liable to the same penalties and seizure as though the same had never been before entered.

[Section III.] And be it further enacted by the authority aforesaid, That Samuel Holt of Philadelphia, shall be and is hereby appointed the present officer to put this act in execution, and shall, by virtue hereof, have full power to make strict inquiry into the premises, and upon information or other probable cause of suspicion, without any further or other warrant, may (upon the party's refusal) with the assistance of the sheriff or constables (who are hereby required to be aiding therein) break open any house or place so suspected, and seize or cause to be seized all such negroes or Indians as shall be found, concealed or otherwise, whose owners or possessors have not complied with this act, according to the true intent and meaning thereof; and thereupon to dispose of such as shall be so seized by a public vendue, for the most they will yield; and when rea-

sonable charges are deducted, shall pay the produce or price thereof and all other sums arising by this act (retaining one shilling for every pound for his trouble therein) into the provincial treasurer's hands for the time being, where the same shall remain, as the public stock, for the use of this government, to be disposed as the laws in such cases shall direct.

And further the said Samuel Holt, during his continuance in the office aforesaid, and his successors in the same are hereby required to keep a distinct and fair book of accounts, wherein their transactions respectively in this affair shall be fully stated, which books shall be delivered to the succeeding officer for the time being, who are hereby obliged to lay the same before the Assemblies of this province when and so often as they shall require the same, and shall pay the moneys from time to time arising by this act into the treasurer's hands, after such deductions made as aforesaid. And in case of the death or removal of the present officer, or any who shall succeed him therein, the governor and council (with the concurrence of the Assembly, if then sitting) for the time being, shall nominate and appoint another person to officiate according to the direction of this act; all which officers respectively shall continue in the same during his or their good behavior therein.

And if any person shall at any time be sued or prosecuted for anything done in pursuance of this act, such person or persons so sued or prosecuted, may plead the general issue, and give this act and the special matter in evidence, for their excuse or justification. And if the plaintiff or prosecutor become nonsuit, or forbear prosecution or suffer discontinuance, or if a verdict pass against him in such action, suit or information, the defendant shall have treble costs as in any case where costs by law are given to defendants.

Provided always, That nothing in this act contained shall be construed to empower the officer aforesaid to exact the said duty of twenty pounds per head for any negro or Indian belonging to any of the inhabitants of this province, that now are or at any time hereafter shall be sent out of the same on their master's or owner's business, with intent to return again; nor to seize or sell any runaway negro or Indian here apprehended,

but that the right owners making proof thereof, may be admitted to carry the same out of this province, within the time above limited for exportation, to be accounted from the time of such master or owner's arrival here (and the same indulgence shall be used for longer time, not exceeding six months at the officer's discretion, to all gentlemen and strangers traveling in this province, who may have negro or Indian slaves, not exceeding two in number, for one person to attend them). But in case no owner shall appear and prove his title to such runaway negro or Indian, so apprehended as aforesaid, within twelve months, the same shall be sold by the said officer, and the money paid as is above by this act directed in the case of a seizure made. And if after such sale the right owner shall appear and apply to the governor, he may, with the concurrence of the council, order restitution of the net proceeds of such sale (deducting the twenty pounds per head imposed by this law, if sold in this province) to be made out of the public stock in the treasurer's hands, anything in this act contained to the contrary notwithstanding.

Passed June 7, 1712. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed May 28, 1715, Chapter 218.

CHAPTER CXIII.

AN ACT FOR THE FURTHER SECURING THE ADMINISTRATION OF THE GOVERNMENT.

Whereas it is of the greatest importance to the well-being of any country to be provided of a regular and plenary administration of government in all emergencies, and considering the uncertainty of human life renders all government liable to changes that may carry great inconveniences with them, unless due provision be made against the same:

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William

Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, etc., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That in case it shall please Almighty God, at any time, in the absence of the governor-in-chief of this province, to remove his lieutenant by death or otherwise, before such sufficient provision be made by the governor-in-chief for the full administration of government, the governor's council that are in place at the time of such lieutenant's death or departure out of this government or so many of them as conveniently can, shall forthwith meet at Philadelphia, and the first named or eldest councilor, or in case of his absence or refusal such other member of council as a majority then present shall choose and appoint, with any four more of the said councilors, shall be a quorum, and shall have the full power and authority of a governor of this province, as effectually as any deputy or lieutenant commissionated by the governor-in-chief may or ought to have; and shall accordingly act and exercise all the powers of government as fully and amply as any deputy or lieutenant-governor of this province may, can or ought to do, legislation excepted, until the said lieutenant-governor's return again, or until another person or persons shall be duly commissionated and empowered by the said governor-in-chief or his heirs to act in their stead.

[Section II.] And be it further enacted by the authority aforesaid, That the president or first named member of council that shall succeed at the time of such death or absence as aforesaid, shall at their first meeting order that due notice thereof be transmitted, by the first opportunity, to one of the secretaries of State in Great Britain, and to the Board of Trade and Plantations, and also to the governor-in-chief of this province.

Provided always, That in case the governor-in-chief shall not within six months after such death or absence of his lieutenant-governor nominate another person to be his lieutenant-governor, and obtain his approbation from the Queen or her successors, then the power of lieutenancy, intended by this act to be lodged in the council, shall remain and continue until the

governor-in-chief make further provision as aforesaid, or until the Queen's pleasure be known therein, and no longer.

Provided also, That in case the said governor-in-chief shall happen to be removed by death or otherwise, then it shall and may be lawful for his deputy or lieutenant for the time being to exercise all the powers of government as fully and amply as before, till further order from her Majesty, her heirs or successors, or the heirs of the said proprietary and governor-in-chief, which shall first happen.

Passed June 7, 1712. Confirmed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II.

CHAPTER CXCIV.

A SUPPLEMENTARY ACT TO AN ACT ENTITLED "AN IMPOST ACT LAYING A DUTY ON NEGROES, RUM, WINE, SPIRITS, CIDER AND VESSELS," AND APPROPRIATING CERTAIN SUMS OF MONEY ARISING BY THE SAME AND OTHER PUBLIC STOCK OF THIS PROVINCE.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the provincial treasurer for the time being shall, within one month after the publication of this act, pay unto the said lieutenant-governor the sum of two hundred and fifty pounds towards the support of the administration of the lieutenancy of this government, and after the said payment is complied withal, shall pay the several orders of this present Assembly issued under the Speaker's hand, and after the same are discharged the said treasurer shall further pay unto the said lieutenant-governor or his assigns for the uses aforesaid the sum of two hundred and fifty pounds more of the public stock of this province, arising by the impost act or otherwise, as the same comes to his hands. But if the said impost or any other act now in force

shall fall short to pay off and discharge the last-mentioned two hundred and fifty pounds, then what remains thereof unpaid, shall be paid out of the first moneys that shall hereafter be raised by tax or otherwise in this province.

And whereas divers persons, sojourners and traders in this province, plead exemption from paying the duties required by the impost act aforesaid, under the pretense of being inhabitants of this province, whereby the true intent of the said act is greatly eluded:

[Section II.] Be it therefore enacted by the authority aforesaid, That no person whatsoever (the governor-in-chief and his lieutenant-governor for the time being excepted) shall claim the privileges intended by the said impost act to the inhabitants unless such person or claimer shall first make it appear to the officer appointed to put the impost act aforesaid in execution that he or they have been resident in this province for the space of one year next before such time of his or their application made. And that all persons obliged by the said act to pay any the imposts or duties imposed by the same shall apply to the officer aforesaid without any notice given or being otherwise thereunto required by the said officer; and all masters of vessels trading in this river and entering into any part of this province, having on board any of the commodities that by the said impost act are obliged to pay any the duties therein mentioned, shall and are hereby required to observe and comply with the direction of the same as though such vessel came from the sea directly.

[Section III.] And be it further enacted by the authority aforesaid, That the sheriffs, water bailiffs, constables and all other officers within this province are hereby enabled and required to be aiding and assisting to the said officer now or hereafter appointed to collect and levy the said impost, to enter on board ships and vessels and to break open houses, cellars and other places for putting this act and the said impost act in execution, under the penalty of five pounds for every refusal, to be levied as the said impost act in such cases directs.

And whereas the said impost act directs that the value of the liquors and negroes run or landed without license and cannot

be found shall be forfeited, but no provision is made by what manner of proceedings such recovery shall be obtained:

[Section IV.] Be it therefore enacted, That in case the liquors or negroes mentioned in the said act have been or shall be run or landed without license or permit from the said officer (appointed to put this and the said act in execution) cannot be found, then the person or persons offending therein upon due proof made shall forfeit the value thereof, to be recovered in any court of record in this province by bill, plaint or information to be brought by the said officer, wherein no essoin, protection or wager of law nor more than one imparlance shall be allowed.

Passed June 7, 1712. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed May 28, 1715, Chapters 217 and 218.

APPENDICES.



APPENDIX I.

Papers relating to the acts passed by the first and second assemblies under the Charter of 1700, from Oct. 14, 1700, to Oct. 28, 1701.

SECTION I.

1. Order in Council, July 30, 1703.
2. Board of Trade Journal, June 1, 1703.
3. Letter from William Popple, June 1, 1703.
4. Opinion of Sir Edward Northev, July 2, 1703.
5. Board of Trade Journal, July 6, 1703.
6. Board of Trade Journal, July 7, 1703.
7. Board of Trade Journal, August 4, 1703.

SECTION II.

1. Order in Council, February 7, 1705-6.
2. Board of Trade Journal, October 15, 1701.
3. Board of Trade Journal, October 28, 1701.
4. Board of Trade Journal, October 29, 1701.
5. Letter from William Popple, October 29, 1701.
6. The Bishop of London's Letter, December 29, 1701.
7. Board of Trade Journal, January 2, 1701-2.
8. Board of Trade Journal, January 15, 1701-2.
9. Board of Trade Journal, April 4, 1702.
10. Letter from William Popple, April 4, 1702.
11. Board of Trade Journal, April 8, 1702.
12. Board of Trade Journal, April 28, 1702.
13. Board of Trade Journal, May 14, 1702.
14. Board of Trade Journal, June 1, 1702.
15. Board of Trade Journal, December 3, 1702.
16. Board of Trade Journal, December 17, 1702.
17. Board of Trade Journal, January 11, 1702-3.
18. Letter from William Penn, 11 mo. (January) 19, 1702-3.

19. **Board of Trade Journal, May 27, 1703.**
20. **Board of Trade Journal, October 13, 1704.**
21. **Board of Trade Journal, October 19, 1704.**
22. **Board of Trade Journal, June 21, 1705.**
23. **Board of Trade Journal, July 6, 1705.**
24. **Board of Trade Journal, July 18, 1705.**
25. **Board of Trade Journal, July 19, 1705.**
26. **Board of Trade Journal, July 20, 1705.**
27. **Board of Trade Journal, July 24, 1705.**
28. **Objections of the Commissioners for Trade and Plantations, August 3, 1705.**
29. **William Penn's considerations upon the preceding, August 31, 1705.**
30. **Board of Trade Journal, August 30, 1705.**
31. **Board of Trade Journal, August 31, 1705.**
32. **Board of Trade Journal, September 4, 1705.**
33. **Board of Trade Journal, September 25, 1705.**
34. **Board of Trade Journal, October 2, 1705.**
35. **Board of Trade Journal, October 4, 1705.**
36. **Board of Trade Journal, October 5, 1705.**
37. **Board of Trade Journal, October 9, 1705.**
38. **William Wharton's opinion on Chapter 106, October 9 1705.**
39. **Board of Trade Journal, October 11, 1705.**
40. **Board of Trade Journal, October 12, 1705.**
41. **Board of Trade Journal, October 15, 1705.**
42. **Board of Trade Journal, October 23, 1705.**
43. **Opinion of Sir Edward Northey, October 19, 1705.**
44. **Board of Trade Journal, October 26, 1705.**
45. **Board of Trade Journal, November 2, 1705.**
46. **Board of Trade Journal, November 7, 1705.**
47. **"General Post Office," and observations on the post office act, November 19, 1705.**
48. **Board of Trade Journal, November 20, 1705.**
49. **Board of Trade Journal, November 22, 1705.**
50. **Board of Trade Journal, November 23, 1705.**
51. **Board of Trade Journal, November 26, 1705.**
52. **Board of Trade Journal, December 20, 1705.**

53. Board of Trade Journal, January 17, 1705-6.
 54. Representation of the Board of Trade, January 17, 1705-6.
 55. Laws objected to by the Commissioners for Trade and Plantations, January 17, 1705-6.
 56. Opinion of Sir Edward Northeby, without date.
 57. Board of Trade Journal, February 26, 1705-6.
 58. Minutes of the Provincial Council, August 31, 1706.
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APPENDIX I.

SECTION I.

1.

At the Court at Hampton Court, the 30th day of July, 1703.

Present:

The Queen's most excellent Majesty in Council.

Upon reading this day at the board a representation from the Lords Commissioners of Trade and Plantations in the words following, viz.,

May it please your Majesty:

Having had under consideration the great inconveniences arising from the different rates at which foreign coins do pass in your Majesty's plantations in America, and particularly upon a complaint that the advancing the rates of coins in Pennsylvania much higher than in other places has drawn away the money from Maryland and does tend greatly to the prejudice of that province, and finding accordingly that there is an act in Pennsylvania appointing the rate of money or coin within that province whereby pieces of eight and dollars of fifteen pennyweight are made current at seven shillings per piece, and that for every pennyweight under or over there is to be abated or advanced four pence per piece, so that a piece of eight of seventeen pennyweight and a half (which is the due weight) is made current at seven shillings and ten pence though the same be not intrinsically worth more than four shillings and six pence, and having also advised with your Majesty's Attorney-

General in order to a further report for the remedying this mischief in all your Majesty's plantations, we humbly offer in the meantime that your Majesty be pleased to declare your disallowance of the foresaid act in Pennsylvania and to direct that neither the assembly, the proprietor nor council of that province do repass the said act, nor make any other act or order for the regulating of coin until your Majesty shall give further directions therein.

All which nevertheless is most humbly submitted.

DARTMOUTH,	WILLIAM BLATHWAYT,
PL. MEADOWS.	MAT. PRIOR.

Whitehall,

July 7, 1703.

Her Majesty with the advice of her Privy Council is pleased to declare her disallowance and disapprobation of the said act in Pennsylvania, appointing the rate of money or coin within that province, and pursuant to Her Majesty's pleasure thereupon, the said act is hereby repealed and declared null and void and of none effect; and Her Majesty is further pleased to direct that neither the assembly, the proprietor or council of that province do repass the said act nor make any other act or order for the regulating of coin until Her Majesty shall give further directions therein, it being Her Majesty's undoubted right to settle the value of coin within her dominions.

JOHN POVEY.

Board of Trade, Proprieties, Vol. VII, f. 47.

2.

A letter to be writ by the Secretary to Mr. Attorney-General for his opinion whether Her Majesty may not by Her Royal prerogative settle the rates of foreign coins in her plantations in America by proclamation, etc., and likewise desiring his opinion upon a Pennsylvania act appointing the rate of money or coin within that province and territories, and for preventing the clipping of the same, was drawn by their Lordships' direction and ordered to be sent.

Board of Trade Journal, June 1, 1703, f. 142.

3.

Whitehall, June the 1st, 1703.

Sir: The Lords Commissioners for Trade and Plantations have considered your opinion touching a law in New England regulating the rate of foreign coins in that colony (afterwards confirmed by the Crown) which opinion does serve for their guidance; and they are further desirous to know from you whether Her Majesty may not by Her Royal prerogative settle the rates of foregn coins in her plantations in America by proclamation (as well under Proprieties as under Her Majesty's immediate government) so far forth as does not contradict any law confirmed by the Crown.

And whereas there is an act passed in Pennsylvania appointing the rate of money or coin within that province and territories, and for preventing the clipping of the same, now in your hands, not yet confirmed by the Crown, which will be necessary to be repealed, upon issuing such proclamation, their Lordships desire likewise your opinion therein.

I am,

Sir,

Your most humble servant,
WILLIAM POPPLE.

Mr. Attorney-General.

Colonial Office Papers, Plantations General, Vol. VII, f. 16.

4.

To the Right Honorable the Lords Commissioners for Trade
and Plantations.

May it please your Lordships:

In obedience to your Lordships' commands I have considered of the question sent to me by Mr. Popple in his letter of the first of June, 1703, hereunto annexed, and am of opinion that Her Majesty may by Her Royal proclamation make foreign coins current money at such rates as she shall think fit in any of her plantations in America, as well under Proprieties as under Her Majesty's immediate government, so far as doth not contradict any law confirmed by the Crown, and for that

purpose it will be necessary to revoke the act passed in Pennsylvania mentioned in the letter, that being a perpetual law.

All which is humbly submitted to your Lordships' great wisdom.

EDWARD NORTHEY.

July 2, 1703.

Colonial Office Papers, Plantations General, Vol. VII, f. 16.

5.

Mr. Attorney-General's answer to the letter writ him by the Secretary the 1st of last month, relating to the currency of foreign coins in the plantations and more especially to the Pennsylvania act appointing the rate of money or coin within that province, etc., was read and directions thereupon given for preparing a representation for the repeal of the said act.

Board of Trade Journal, July 6, 1703, f. 174.

6.

A representation that Her Majesty would please to disallow the Pennsylvania act for appointing the rate of money or coin within that province was signed.

Ibid, July 7, 1703, f. 177.

7.

An order of council of the 30th of last month upon the representation of this Board of the 7th ditto, for repealing the act in Pennsylvania appointing the rate of money or coin within that province, was read; and ordered to be sent to Mr. Penn that the same may be accordingly there observed.

Ibid, August 4, 1703, f. 194.

APPENDIX I.

SECTION II.

1.

At the Court at St. James, the 7th day of February, 1705.

Present:

The Queen's most excellent Majesty,

Lord Archbishop of Canterbury, Earl of Berkeley,

Lord Keeper, Earl of Bradford,

Lord Treasurer, Lord Viscount Cholmondeley,

Lord President, Lord Conningesby,

Duke of Ormond, Mr. Secretary Hedges,

Duke of Marlborough, Mr. Secretary Harley,

Lord Chamberlain, Lord Chief Justice Holt,

Earl of Stanfard, Mr. Vernon,

Earl of Radnor, Mr. How.

Whereas by letters patent granted by his late Majesty, King Charles the Second, to William Penn, Esquire, for the proprietaryship and government of the province of Pennsylvania, in America, bearing date the fourth of March, 1680, the said William Penn is empowered, with the advice of the freemen of that province, or their deputies, in General Assembly met, to enact laws for the good government of the said province, under a proviso that such laws be not repugnant or contrary to, but so far as conveniently may be agreeable with, the laws of England; as also, that a transcript or duplicate of all such laws

be, within five years after the making thereof, transmitted and delivered to the Lords of the Privy Council; and that if any of the said laws, within the space of six months after they shall be delivered as aforesaid, be declared by Her Majesty to be void, the said laws shall thenceforth become null and void accordingly, otherwise to remain in full force. And the Lords Commissioners for Trade and Plantations having this day laid before Her Majesty in council, a collection of laws which they had received from Mr. Penn under the seal of that province, which he hath certified to be signed and passed by him in that province, in the years 1700 and 1701, the titles whereof are as follows, viz.:

The Law concerning liberty of conscience.

An Act against riots, rioters and riotous sports, plays and games.

An Act against adultery and fornication, etc.

An Act against rape or ravishment.

An Act against incest, sodomy and bestiality.

An Act against bigamy.

An Act against robbing and stealing.

An Act against breaking into houses.

An Act against firing of houses, etc.

An Act against murder.

An Act for county seals, and against counterfeiting hands and seals.

An Act about recording of deeds.

An Act limiting the presentments of the grand jury.

The Law about attachments.

An Act for naturalization.

An Act for the ascertaining the descent of lands, and better disposition of estates of persons intestate.

An Act to prevent immoderate fines.

An Act about defalcation.

An Act determining debts under forty shillings.

An Act to oblige witnesses to give evidence, and to prevent false swearing.

An Act confirming devises of lands, and validity of nuncupative wills.

An Act for empowering widows and administrators to sell so much of the land of intestates as may be sufficient to clear their debts, etc.

An Act for priority of payments to the inhabitants of this government.

An Act for the trial of negroes.

An Act about departers out of this province.

An Act against the mixing and adulterating strong liquors.

The Law against drunkenness, and healths-drinking.

An Act for bailing of prisoners, and about imprisonment.

An Act for the effectual establishment and confirmation of the freeholders of this province and territories, their heirs and assigns, in their lands and tenements.

The Law about arrests, and making debtors pay by servitude.

The Law about false imprisonment.

The Law about acknowledging deeds in court.

The Law about seven years' possession.

The Law about the manner of giving evidence, and against such as lie in conversation.

The Law for the confirmation of the laws of this government.

An Act against menacing, and assault and battery.

An Act against sedition, spreading false news, and defamation.

An Act of privileges to a freeman.

An Act for the names of days and months.

An Act to ascertain the number of members of assembly, and to regulate the elections.

An Act directing the attests of several officers and ministers.

An Act against speaking in derogation of courts.

An Act for the preservation of the person of the proprietary and governor.

An Act requiring all masters and commanders of all ships and vessels to make report at the town of Newcastle, that are or shall be bound to and from the sea.

An Act for the levying of fines.

The Law against scolding.

An Act to prevent the sale of ill-tanned leather, and working the same into shoes and boots.

An Act that no public house or inn within this government be kept without license.

An Act against pirates and sea-robbers.

An Act for erecting a bridge over the creek at Chester, in the county of Chester.

The Law about trials by twelve men.

An Act for establishing courts of judicature in this province, and the counties annexed.

An Act against swine running at large in several of the townships within this government.

An Act about boats and canoes.

An Act against forcible entry.

An Act against removing of landmarks.

An Act against defacers of charters, etc.

An Act for regulating the interest of money.

An Act against buying lands of the natives.

An Act directing how petty offenses shall be punished.

An Act for the better provision for the poor within this province and territories.

An Act about binding to the peace.

An Act for raising county levies.

An Act for the better attendance of the justices on the several courts of judicature within this province and territories.

An Act against jurors absenting themselves, being lawfully summoned to attend the general courts of judicature within this province and territories.

An Act for the appraisement of goods.

An Act against barrators.

An Act to prevent the grievous sins of cursing and swearing within this province and territories.

An Act to prevent all duelling and fighting of duels within this province and territories.

An Act for the taking of land in execution for the payment of debts, where the sheriffs cannot come at other effects to satisfy the same.

An Act for the better regulation of servants within this province and territories.

An Act for erecting and establishing a post office.

An Act for the assize of bread.

An Act to empower the justices in each county to lay out and confirm all roads, except the King's highways and public roads.

An Act for regulating and maintaining of fences.

An Act for the erecting of bridges and maintaining highways.

An Act against weirs, cross creeks and rivers.

An Act against unseasonable firing of woods.

An act about erecting and regulating the price of ferries.

An Act to prevent sickly vessels coming into this government.

The Law about killing of wolves.

An Act for regulating of money weights, and for stamping the same.

An Act concerning bills of exchange.

An Act appointing the rates of money or coin within this province.

An Act for regulating weights and measures.

An Act for keeping a registry in religious societies.

An Act for the ascertaining the dimensions of casks, and for the true packing of meat for transportation.

An Act about cutting of timber trees.

An Act for granting an impost upon wines, rum, beer, ale, cider, etc., imported, retailed and sold, in this province and territories.

An Act for raising one penny per pound and six shillings per head, for the support of the government, and payment of debts, and defraying the necessary charges thereof.

An Act for granting and raising to the proprietary and governor the sum of two thousand pounds, upon the clear value of all real and personal estates and upon the polls of all freemen, within this province and the counties annexed.

An Act about country product to be current pay in the territories of the province of Pennsylvania.

The Law about court proceedings and summoning juries.

The Law about forms of writs.

The Law against persons judging in their own causes.

The Law about Indian traders.

The Law about officers' fees.

An Act for the punishment of larceny under five shillings.

An Act about attachments under forty shillings.

An Act for the preventing of clandestine marriages.

An Act for preventing accidents that happen by fire in the towns of Bristol (formerly called Buckingham), Philadelphia, Germantown, Darby, Chester, Newcastle and Lewes, within this government.

An Act for the destruction of blackbirds and crows.

An Act for the sale of the court house and prison in the county of Chester.

An Act against selling rum and other strong liquors to the Indians.

All which laws having been perused and duly considered by the said Lords Commissioners for Trade and Plantations, together with the opinion of Her Majesty's Attorney-General upon several of them in point of law, and the said commissioners having this day humbly represented to Her Majesty that they find divers reasons for Her Majesty's disallowing and repealing these laws following, viz.:

The Law concerning liberty of conscience.

An Act against riots, rioters and riotous sports, plays and games.

An Act against adultery and fornication, etc.

An Act against rape or ravishment.

An Act against incest, sodomy and bestiality.

An Act against bigamy.

An Act against robbing and stealing.

An Act against breaking into houses.

An Act against firing of houses, etc.

An Act against murder.

An Act for county seals, and against counterfeiting hands and seals.

An Act about recording of deeds.

An Act limiting the presentments of the grand jury.

- The Law about attachments.
An Act for naturalization.
An Act for the ascertaining the descent of lands and better dispositions of estates of persons intestate.
An Act to prevent immoderate fines.
An Act about defalcation.
An Act determining debts under forty shillings.
An Act to oblige witnesses to give evidence, and to prevent false swearing.
An Act confirming devises of lands, and validity of nuncupative wills.
An Act for empowering widows and administrators to sell so much of the land of intestates as may be sufficient to clear their debts, etc.
An Act for priority of payments to the inhabitants of this government.
An Act for the trial of negroes.
An Act about departers out of this province.
An Act against the mixing and adulterating strong liquors.
The Law against drunkenness and healths-drinking.
An Act for bailing of prisoners and about imprisonment.
An Act for the effectual establishment and confirmation of the freeholders of this province and territories, their heirs and assigns, in their lands and tenements.
The Law about arrests, and making debtors pay by servitude.
The Law about false imprisonment.
The Law about acknowledging deeds in court.
The Law about seven years' possession.
The Law about the manner of giving evidence, and against such as lie in conversation.
The Law for the confirmation of the laws of this government.
An Act against menacing, and assault and battery.
An Act against sedition, spreading false news, and defamation.
An Act of privileges to a freeman.
An Act for the names of days and months.
An Act to ascertain the number of members of assembly, and to regulate the elections.

An Act directing the attests of several officers and ministers.

An Act against speaking in derogation of courts.

An Act for the preservation of the person of the proprietary and governor.

An Act requiring all masters and commanders of all ships and vessels to make report at the town of Newcastle, that are or shall be bound to and from the sea.

An Act for the levying of fines.

The Law against scolding.

An Act to prevent the sale of ill-tanned leather, and working the same into shoes and boots.

An Act that no public house or inn within this government be kept without license.

An Act against pirates and sea robbers.

An Act for erecting a bridge over the creek at Chester, in the county of Chester.

The Law about trials by twelve men.

An Act for establishing courts of judicature in this province, and the counties annexed.

An Act against swine running at large in several of the townships within this government.

Which laws, together with the reasons for repealing the same, having been this day taken in consideration at the board, Her Majesty, with the advice of her Privy Council, hath thought fit to declare her disallowance and disapprobation of the said several laws last above mentioned; and accordingly the same are hereby repealed, annulled and made void and of none effect, to all intents and purposes whatsoever.

JOHN POVEY.

2.

Mr. Lawton presented to the board a letter from Mr. Penn dated at Philadelphia the 26th August last, in which was inclosed the copy of one from him to the Lords of the Admiralty, dated the 10th of December last; together wherewith he also delivered the laws passed in a General Assembly of Pennsylvania from 14th October to the 27th of November, 1700. And both the said letters were read.

3.

Ordered that the acts of Pennsylvania passed at Newcastle in November, 1700, lately received from Mr. Penn, be sent to Mr. Attorney-General for his opinion in point of law; and whereas it is not evident to this board that Mr. Penn has any right to government in the three lower counties (whereof Newcastle is a part), ordered further that Mr. Attorney's opinion be desired whether His Majesty's approbation of the said acts so passed at Newcastle, would not be an acknowledgment of that right which otherwise does not appear to belong to him.

Ibid, October 28, 1701, f. 190.

4.

The draught of a letter from the Secretary to Mr. Attorney-General with the Pennsylvania acts mentioned in yesterday's minute, and some queries relating thereto, was agreed upon and ordered to be sent accordingly.

Ordered also that the Secretary do write to Mr. Solicitor-General and to Mr. Lawton pursuant to the said queries and the purport of the said letter.

Board of Trade Journal, October 29, 1701, f. 191.

5.

To Edward Northeby, Esquire, His Majesty's Attorney-General.

Sir: The Lords Commissioners for Trade and Plantations have commanded me to send you the acts passed by Mr. Penn at an assembly held at Newcastle in November, 1700, according to the inclosed list and to desire your opinion thereupon in point of law.

And whereas their lordships are not satisfied that Mr. Penn has the right of government in the three lower counties (whereof Newcastle is part), they further desire your opinion (together with Mr. Solicitor-General's) whether in case His Majesty should approve of the said acts so passed at Newcastle it might not be interpreted as an acknowledgment of Mr. Penn's right to government in these counties, which otherwise does not appear to belong to him.

Their lordships also desire you and Mr. Solicitor to consider

and report to them your opinion, whether the style of these acts do not exceed the powers granted to Mr. Penn, and whether such style be consistent with His Majesty's sovereignty.

In order to the resolution of which questions, their Lordships have directed Mr. Penn's agent to attend you with what he may have to produce in Mr. Penn's behalf.

WILLIAM POPPLE.

Whitehall, October 29, 1701.

P. S.—Mr. Penn's agent above mentioned is Mr. Charlewood Lawton.

Board of Trade, Proprieties, Vol. XXVII, f. 299.

6.

December 29th, 1701.

Sir: I humbly intreat you to give me leave to make use of your hands to lay the inclosed grievance before your board. It is of that nature as if passed unconsidered will overthrow the poor infant church just now set up there. Besides I do not think the King is one moment secure of the fort there in case we should fall out with France, for what is to be expected from such a person but that he should deliver all up to the highest bidder.

Let me likewise beg of you to propose that Mr. Penn's act about marriages may not pass, for it will be impossible for any but Quakers to live when that law shall prevail. It is Act 25, October 14, 1700.

There is another act I humbly desire may not pass. It was made at New York, July 29, 1700, for declaring the town of E. Chester a distinct parish from that of W. Chester. The several churches are well settled by a former act, and if this should pass it would ruin all.

I am, sir,

Your most obedient servant,
H., LONDON.¹

Board of Trade, Newfoundland, Vol. IV.

¹ Henry Compton, Bishop of London, 1675–1713.

7.

Ordered that the Secretary write to Mr. Attorney-General for his report upon the Pennsylvania acts sent him the 29th of October last; or if he have not yet considered the same, to desire him to return them, though without a report, and in that case to signify to him their Lordships' further desire to have his and Mr. Solicitor-General's answer to the two questions sent them at that time in relation to the said acts without delay.

Board of Trade Journal, January 2, 1701-2, f. 266.

8.

A letter from Mr. Penn to the secretary of this board to acquaint their Lordships that the acts of Pennsylvania passed at Newcastle, which are now in the Attorney-General's hands, have been re-enacted at Philadelphia with an addition of thirty or forty new ones; and that they are in that manner to be speedily sent over hither; whereupon he also offering that the consideration of those already here may be suspended till the arrival of these last, their Lordships agreed that he be acquainted that they will suspend their resolutions for some reasonable time, and ordered withal that he be directed to give effectual orders (if not already done) that the said last acts be transmitted hither without delay.

Ibid, January 15, 1701-2, f. 289.

9.

A letter from the secretary to Mr. Penn, relating to the laws of Pennsylvania, to the administration of justice, the three lower counties, the militia, illegal trade, etc., was directed by the board and sent.

Ibid, April 4, 1702, f. 397.

10.

To William Penn, Esquire:

Sir: The Lords Commissioners for Trade and Plantations have commanded me to acquaint you that they have with reason expected that since your arrival from Pennsylvania you would have called upon them at their board, in reference to the affairs of Pennsylvania and the three lower counties, and their Lord

ships having lately received divers complaints relating to the laws, to the administration of justice, the militia and defense of those provinces, to piracy encouraged and illegal trade practised there, and other irregularities, they have further commanded me to acquaint you herewith, and that they do expect your speedy attendance by yourself or agent sufficiently empowered, it being necessary for Her Majesty's service that they forthwith lay a report of these matters and the state and security of those provinces before Her Majesty in council which they are unwilling to do without first hearing you. Their Lordships therefore desire to know the precise time of your coming to town, that all things may be then ready; and I am further to acquaint you that immediately upon your coming to town you shall have copies of such papers as shall be requisite.

I am, &c.,

W[M]. P[OPPLE].

Whitehall, April 4, 1702.

Board of Trade Proprieties, Vol. XXVII, f. 403.

11.

Ordered that the secretary send to the Attorney-General for the acts of Pennsylvania that are in his hands, and for an answer to the two questions proposed to him by letter of the 29th of October last.

Board of Trade Journal, April 8, 1702, f. 402.

12.

An address from the representatives of the three lower counties to this board dated the 25th October last, relating to their ill state of defense (Pennsylvania I, No. 1), also copy of an address from the said representatives to Mr. Penn, dated the 18th of October last, relating to the expense of the assembly, the not sending home of some acts, Mr. Penn's title to the government of the lower counties and the want of a militia and stores of war (Pennsylvania I, No. 7) were read. Ordered that copies thereof be given to Mr. Penn, who promised to lay a further memorial before the board relating to those and other matters with all the speed he can.

Ibid. April 28, 1702, f. 448.

13.

Ordered further that a copy of the fourth article (which relates to clandestine marriages in Pennsylvania) be sent to Mr. Penn and that he be desired to come prepared on Tuesday next (when he is already appointed to attend upon another occasion) to answer the objections that may be made against the said act and to show the reasonableness of it.

Ibid, May 14, 1702, Vol. XV, f. 23.

14.

Mr. Chamberlain, from the Lord Bishop of London, presented to the board a copy of the Pennsylvania act for preventing clandestine marriages, and their Lordships ordered a copy thereof to be given to Mr. Penn.

Ibid, June 1, 1702, Vol. XV, f. 52.

15.

The Lord Bishop of London desired the board when the acts of New York and of the Leeward islands shall come under consideration, that they would be mindful of his objections against the particular acts mentioned in the minutes of the 15th June last, as likewise against the act relating to clandestine marriages.

Ibid, December 3, 1702, Vol. XV, f. 307.

16.

A letter from Mr. Penn inclosing the body of the laws of Pennsylvania, and desiring that the approbation intended for Col. Hamilton to be deputy-governor of Pennsylvania for one year may commence from the time that it shall arrive there, was read; and the said laws were laid before the board.

Ibid, December 17, 1702, Vol. XV, f. 327.

17.

Ordered that the secretary write to Mr. Penn to know whether the acts of the assembly of Pennsylvania received from him, the 15th of December last, be a complete body of all the laws of that province now in force or no.

Ibid, January 11, 1702-3, Vol. XV.

18.

19th, 11 (January), 1702.

Honorable Friends: I inclose the certificate of the security being given by the two gentlemen that were accepted by you and pray the utmost dispatch of the Queen's approbation of my lieutenant-governor, because the ships go in a day or two. I also humbly pray that the approbation may be so worded that the year to which it is limited may not commence till the 1st of May or rather not end till the first day of the month called May, 1704, the time of going, from weather or the enemy, being uncertain, it may be in six weeks and it may be six months, which would make a great hole in that time.

For the laws, I believe they are the present body of laws: but at the perusal of my next letters now in the Channel, I may be better able to answer your letter on that subject.

I am, with respect,

Your affectionate faithful friend,

WILLIAM PENN.

To the Lords of Trade.

Board of Trade, Proprieties, Vol. VII. f. 17.

19.

Ordered that all the acts of the General Assembly of Pennsylvania, now lying in this office, together with those of Virginia from the 5th of December, 1700, and those of Barbadoes from the 5th of December, 1700, be sent to Mr. Attorney-General.

Board of Trade Journal, May 27, 1703, Vol. XVI. f. 136.

20.

Mr. Borret presented to their Lordships Mr. Attorney-General's report upon a collection of the Pennsylvania acts passed there in 1700 and 1701.

Ibid. October 13, 1704. Vol. XVII. f. 132.

21.

The secretary acquainting their Lordships that Mr. Attorney and Mr. Solicitor-General have returned several laws of

Maryland, Barbadoes, New Hampshire, Bermuda, Leeward Islands, Massachusetts Bay, Virginia and Pennsylvania, whereupon ordered that a copy of Mr. Attorney-General's report upon the Pennsylvania laws be communicated to Mr. Penn.

Ibid, October 19, 1704, Vol. XVII, f. 140.

22.

A letter from Mr. Penn, desiring the board to enter the consideration of the laws of Pennsylvania was read; and Mr. Penn himself attending, said that if the said laws of Pennsylvania were once confirmed by Her Majesty there would be then less difficulty in agreeing what he desired as terms of surrender of his government to Her Majesty. But as Mr. Attorney-General had made same objections to some of the said laws, he desired he might have them again with Mr. Attorney's report upon them that he might attend him and be heard thereupon.

Ordered that the said laws and report be delivered him accordingly.

Ibid, June 21, 1705, Vol. XVII, f. 414.

23.

A letter from Mr. Penn, desiring their Lordships' speedy report upon the laws of Pennsylvania, was read and their Lordships agreed to take the said laws into consideration on Tuesday next.

Ibid, July 6, 1705, Vol. XVIII, f. 8.

24.

Mr. Attorney-General's report upon the acts passed at two general assemblies of Pennsylvania, the one held in November, 1700, the other in October, 1701, was read, and the said acts taken into consideration and a progress made therein.

Ibid, July 18, 1705, Vol. XVIII, f. 21.

25.

Their Lordships entered again upon the consideration of the Pennsylvania laws and made a further progress therein; and ordered that a copy of the act for erecting and establishing a

post office be sent to the postmaster-general for their [sic] opinion thereupon.

Ibid, July 19, 1705, Vol. XVIII, f. 22.

26.

Their Lordships went through the consideration of the Pennsylvania laws, and gave directions for preparing a representation thereupon.

Ibid, July 20, 1705, Vol. XVIII, f. 23.

27.

Mr. Penn attending, he was acquainted with the objections their Lordships had against several of the laws of Pennsylvania, and after some discourse thereupon, ordered that a copy of their Lordships' observations upon the said acts be sent to Mr. Penn for his information.

Ibid, July 24, 1705, Vol. XVIII, f. 25.

28.

Objections made by the Commissioners for Trade and Plantations upon several acts of Pennsylvania:

An Act against menacing and assault and battery.

The words "menace, write or speak slightly or carry themselves abusively" are too general and uncertain, and liable to be construed according to the humor of the courts. The penalty in this act is too general.

An Act against sedition, spreading false news and defamation.

In this act it is said "That if any person shall speak, act or write anything tending to sedition or disaffection to this government," such person is to [be] fined at the discretion of the justices of the respective county courts, not less than five pounds or three months' imprisonment. Instead of the words "sedition and disaffection to this government," ought to have been "against Her Majesty or this Her Majesty's government," for there cannot be any sedition but against Her Majesty.

An Act of privileges to a freeman.

This act ordains "That no freeman shall be hurt, damned, destroyed, tried or condemned but by the lawful judgment of

his twelve equals or by the laws of the province." This we think interferes with the act for preventing frauds and regulating abuse in the plantation trade, passed in the 7th and 8th years of the late King's reign, whereby admiralty courts are settled in the plantations.

An Act for the names of days and months.

Every man may call the days and months as he pleases. This act is insignificant and not fit to be laid before Her Majesty.

An Act to ascertain the number of members of assembly, and to regulate elections.

In this act advertisements for the day of elections are to be posted upon some "tree or house in the way leading from every hundred or precinct to the capital towns, and upon the court houses and public meeting houses." It ought to have been "churches, chapels and public meeting-houses."

An Act directing the attests of several officers and ministers.

If the government be surrendered to Her Majesty, this act ought not to be confirmed, because judges, justices, sheriffs, etc., are hereby required to promise fidelity to the proprietary. Besides none of the officers mentioned in this act are obliged to take an oath for the due execution of their places, but only to make an attestation in the form therein set down, which we think not sufficient. The words "master of the rolls" are not used in any other of Her Majesty's plantations and is peculiar to Her Majesty's officer here.

An Act against speaking in derogation of courts.

This enacts "That if any person shall speak rudely anything in derogation of any sentence or judgment given in any court, or shall misbehave himself in the said court, such person shall be fined," etc. These words we think too general and liable to arbitrary construction.

An Act for the preservation of the person of the proprietary and governor.

We think this act not proper to be laid before Her Majesty, the proprietary and governor having already the same protection by law as other Her Majesty's subjects.

An Act requiring all masters and commanders of all ships

and vessels to make report at the town of Newcastle that are or shall be bound to and from the sea.

This act establishes the town of Newcastle as a port, whereas the power of settling ports is by act of parliament vested in the commissioners of the customs under the direction of the Lord High Treasurer, or Commissioner of the Treasury. Besides if the government be surrendered to Her Majesty this act must not be confirmed, because part of the penalties herein are appropriated to the proprietary.

An Act for the levying of fines.

This act cannot be confirmed for the same reason, the fines being appropriated to the proprietary.

The Law against scolding.

The words "if any person shall be clamorous with their tongue" are too general and want explanation. And the penalty of standing gagged in some public place, or five days' imprisonment at hard labor, is too great. It is not said how long the person shall stand gagged.

An Act to prevent the sale of ill-tanned leather and working the same into shoes and boots.

It cannot be expected that encouragement should be given by law to the making any manufactures in the plantations, it being against the advantage of England.

An Act that no public house or inn within the government be kept without license.

If the government be surrendered to Her Majesty this act cannot be confirmed, because these licenses are to be granted by the proprietary or his heirs, or his or their deputy-governor, and the penalties are in part appropriated to the proprietary.

An Act against pirates and sea-robbers.

This act cannot be confirmed, because a late act of parliament passed in England has provided for these cases, and commissions have been issued by Her Majesty accordingly.

An Act for erecting a bridge over the creek at Chester, in the county of Chester.

The first enacting clause begins "Be it enacted by the authority aforesaid," whereas there is only the governor and council mentioned before.

The Law about trials by twelve men.

This act as it is worded interferes with the above-mentioned act for preventing frauds and regulating abuses in the plantation trade.

An Act against swine running at large in several of the townships within this government.

This act also cannot be confirmed, if the government be surrendered to Her Majesty, because the forfeitures in this act are to the proprietary.

We observe, besides the above particular objections upon all the Pennsylvania acts in general, that in most of them it is said "counties or territories annexed," whereas we know of none "annexed." Her Majesty's name or the year of her reign is not mentioned. In all the said acts it is said "this government," whereas it ought to have been "this Her Majesty's government."

The style of enacting is in all the acts to be redressed.

Endorsed August 3, 1705.

Board of Trade, Proprieties, Vol. VIII, f. 41.

29.

The Objections Considered About Some Pennsylvania Laws.

To the first objection.

It's agreed that law be returned, but let the simplicity of the times in that wilderness excuse inexpertness. Pray word it better for us, or give us directions how to do it.

To the second objection.

Agreed to be returned and amended.

To the third objection.

No need of using Her Majesty's name, when the names used stand upon the Queen's authority.

To the fourth objection.

I cannot help it; 'tis the great charter that all Englishmen are entitled to, and we went not so far to loose a little of it.

To the fifth objection.

Agreed to be mended.

To the sixth objection.

I think a word no reason to lay by or delay so material a law, where there are words enow to answer the end; nor have we yet church places to authorize it.

To the seventh objection.

I am of opinion my surrender will best repeal that part which regards fidelity to me.

To the eighth objection.

I cannot see any reason to oust the people that made it a country from the government of it, for their tenderness about an oath, that went thither to avoid it with other things. And for styles of officers they were under no obligation to symbolize with England. Carolina does not. And that which is called mayor in one place is a bailiff in another, and in Ireland in divers places sovereign.

To the ninth objection.

Agreed to be mended.

To the tenth objection.

When the government is surrendered to be sure it becomes useless.

To the eleventh objection.

Under favor you will find the power of ports in me, since 'tis one of the clauses to be surrendered by me, nor does the act reach but to colonies in the Queen's immediate disposition, nor does the act undo what is done nor compel the Queen to it.

To the twelfth objection.

The same answer serves.

To the thirteenth objection.

Agreed to be mended.

To the fourteenth objection.

It is not to be wholly hindered; and if done, then to be done not fraudulently, nor can any reason of State in prudence or justice put one man's commodity, as this will, upon another at the seller's price, as this does; as good forbid wearing shoes at all.

To the fifteenth objection.

I desire only the privileges truly proprietary or as lord of the manor of the country, except the Queen pleases at the instance of the board to make a further distinction.

To the sixteenth objection.

I presume they are not inconsistent.

To the seventeenth objection.

But that implies the Crown's authority under which they claim the same in palatinates and corporations here.

To the eighteenth objection.

I must submit to lawyers, but the nature of that act and its extent deserve to be explained and settled.

To the nineteenth objection.

A clause in the surrender as aforesaid may regulate it; till the surrender is perfected, 'tis good, and that I pray with expedition.

To the twentieth objection.

Since so styled by the Kings and Queens, it must be no fault to use it, nor is there inconveniency in it.

To the twenty-first objection.

It is in our courts and acts of court, and in the rolls, "by the Queen's authority and name of the proprietary," being the old form. And it must be an undesigned omission, but the by-laws of our great towns here, I suppose, do the same thing.

WILLIAM PENN.

Ibid, August 31, 1705.

30.

Mr. Penn presented to the board his answer to their observations upon the Pennsylvania laws, which their Lordships resolved to take into consideration to-morrow. Then Mr. Penn desired their Lordships to signify to him by letter that they would lay such of the Pennsylvania laws against which they had no objection before Her Majesty after her return from Win-

chester, for her royal approbation. Whereupon their Lordships gave directions for preparing such a letter accordingly.

Board of Trade Journal, August 30, 1705, Vol. XVIII, f. 38.

31.

Mr. Penn attending, their Lordships' observations upon the Pennsylvania laws with Mr. Penn's answer thereunto were read, and after some discourse thereupon Mr. Penn agreed that the said laws be remitted back to Pennsylvania to be amended according to the said observations of the board; and he further desired that those acts against which Mr. Attorney-General had given his opinion might not be repealed but returned also back to Pennsylvania to be amended.

Ibid, August 31, 1705, Vol. XVIII, f. 39.

32.

Mr. Penn attending, their Lordships made a further progress in the consideration of the Pennsylvania laws and resolved to proceed further therein at their next meeting.

Ibid, September 4, 1705, Vol. XVIII, f. 41.

33.

Ordered that the draft of a representation be prepared upon the Pennsylvania laws and a letter to Mr. Secretary Hedges upon Mr. Penn's proposal for a surrender.

Ibid, September 25, 1705, Vol. XVIII, f. 43.

34.

The draft of a letter to Mr. Secretary Hedges upon Mr. Penn's proposal for surrendering his government of Pennsylvania to Her Majesty, as also the draft of a representation upon the laws of Pennsylvania were read; and thereupon ordered that Mr. Penn have notice to attend the board on Thursday morning next.

Ibid, October 2, 1705, Vol. XVIII, f. 44.

35.

Mr. Penn attending, and several questions being asked him about the Pennsylvania laws, he said that they were passed by his deputy-governor, that he had reserved to himself by his

commission to the said deputy-governor a negative upon all the laws so passed by him; that he had not himself as yet confirmed the laws now under consideration, and that he was ready to confirm all such as the board approved of before they be presented to Her Majesty, and he promised to bring to the board a copy of his commission to his deputy-governor.

Ibid, October 4, 1705, Vol. XVIII, f. 48.

36.

A copy of Mr. Penn's commission to Andrew Hamilton to be deputy-governor of Pennsylvania was sent by Mr. Penn to the board and read, and a copy thereof ordered to be kept.

Ibid, October 5, 1705, Vol. XVIII, f. 51.

37.

Mr. Penn attending, presented to their Lordships a paper containing some objections to one of the Pennsylvania laws, entitled "An Act for establishing courts of judicature in this province and the colonies annexed," and desired that the said law might not be confirmed, but sent back to be amended.

Ibid, October 9, 1705, Vol. XVIII, f. 51.

38.

An Act for establishing courts of judicature in this province and the counties annexed.

Upon perusal of this act (I conceive) ejectments may and ought to be brought and prosecuted in Pennsylvania in the same manner as in England, notwithstanding an uncertain expression in the act (keeping to brevity, plainness and verity in all declarations and pleas, and avoiding all fictions and colour in pleadings). The meaning of which clause (I think) can only extend to avoid such fictions as in their own nature tend to prejudice or delay either party, and hinder the merits and right of the cause from a fair and speedy determination. The bringing therefore ejectments as aforesaid, being no ways prejudicial to either party, but the most speedy and easy method of bringing the matter in question to an issue, and restoring the party injured to his right, ought to be allowed and encouraged, and if the justices or judges there, from too

strict construction of the said clause, will not allow of such ejectments, it will (as I conceive) be convenient, if not necessary, to endeavor a stop to Her Majesty's passing the act, until the same be amended or better explained in this point.

[Received October 9, 1705.]

WILLIAM WHARTON.

Board of Trade, Proprieties, Vol. VIII, N. 46.

39.

Mr. Penn attending, their Lordships proceeded in the consideration of the Pennsylvania laws, but some doubts arising relating to a power reserved by Mr. Penn to himself in his commission to his lieutenant-governor of confirming or disallowing of such acts as shall be passed by his said lieutenant-governor, their Lordships gave directions for preparing a letter and queries to Mr. Attorney-General thereupon.

Board of Trade Journal, October 11, 1705, Vol. XVIII, f. 52.

40.

The queries to Mr. Attorney-General relating to the laws of Pennsylvania as ordered in yesterday's minutes were agreed and sent. Ordered that a letter be writ to Mr. Penn to know whether he desires the board should proceed to a report to Her Majesty upon his proposals for a surrender of his government of Pennsylvania singly, without staying for a determination about the laws.

Ibid, October 12, 1705, Vol. XVIII, f. 53.

41.

Mr. Penn attending and being asked whether he would have his proposals for a surrender represented to Her Majesty without staying for a determination upon the laws, he said that he did not desire the said proposals should be reported until the laws of Pennsylvania (not objected against) be confirmed, unless he can have an assurance that the said laws shall receive Her Majesty's confirmation. Afterwards, however, he desired their Lordships would proceed so far as to draw up and agree

upon their report that it may be ready to be laid before Her Majesty at the same time with the laws.

Ibid, October 15, 1705, Vol. XVIII, f. 57.

42.

Mr. Attorney-General's answer to the several queries sent him the 12th inst. relating to the laws of Pennsylvania, etc., was read; and thereupon ordered that a letter be writ to Mr. Penn inclosing a copy of the said answer.

Ibid, October 23, 1705, Vol. XVIII, f. 71.

43.

Mr. Attorney-General's answer to the foregoing queries:

I am of opinion Mr. Penn or his deputy (who when appointed is as himself) must give the assent to the laws in the place where the assembly is and cannot do it in any other place, and the law must be passed or rejected when presented, the assembly being in nature of an English parliament.

I am of opinion the power to make laws being granted to him and his heirs and to his and their deputies and lieutenants, if the laws be enacted by a deputy they ought to be expressed to be so and not to be enacted by Mr. Penn, for the deputy who acts makes the law by the power in the charter and not Mr. Penn, and it is not like a commission in England to give the royal assent to a bill which is only to give Her Majesty's assent and not to enact the law, as the deputy's power in Mr. Penn's case is. Therefore the assembly not being holden by Mr. Penn, these laws are not fit to be presented to Her Majesty as laws made by him.

I am of opinion the laws being enacted by the assembly and the deputy (as the power given to the deputy was to enact them) they are absolute unless repealed by Her Majesty, and the saving of the final assent to himself and his heirs to the bills the deputy shall enact is absolutely void and contrary to the charter. For the power of making laws must be executed only by himself or his deputy.

I am of opinion by such laying the body of laws before Her Majesty in council with a report of some of them, all the laws

will be construed to be delivered to the Privy Council at that time and will remain absolute unless repealed in six months.

EDWARD NORTHEY.

October 19, 1705. [Received October 23, 1705.]

Board of Trade, Proprieties, Vol. XXIX, f. 222.

44.

Mr. Penn attending, he said that Mr. Attorney-General's late report upon his laws need not be any hindrance to their Lordships laying the said laws before Her Majesty, because those laws were most, if not all of them, passed by himself (and not his lieutenant-governor) in the years 1700 and 1701. However, he promised in a few days to give their Lordships a more particular account of that matter, and he agreed that such laws as are objected against by the board and Mr. Attorney-General be laid before her Majesty to be repealed.

Board of Trade Journal, October 26, 1705, Vol. XVIII, f. 78.

45.

Copy of Mr. Penn's charter to the city of Philadelphia, dated the 25th October, 1701, as also copy of his charter of privileges to the people of Pennsylvania, dated the 28th October, 1701, laid before the board, and the first of the said charters read; and thereupon ordered that Mr. Penn have notice to attend their Lordships on Tuesday or Thursday next in the morning.

Ibid, November 2, 1705, Vol. XVIII, f. 90.

46.

Mr. Penn attending, his charter to Philadelphia and his charter of privileges to the inhabitants of Pennsylvania, mentioned in the minutes of the 2d instant, were read, and upon some discourse with Mr. Penn thereupon, he promised to send to their Lordships to-morrow a fair draft of a surrender of his government of Pennsylvania to Her Majesty for their Lordships to proceed further upon.

Ibid, November 7, 1705, Vol. XVIII, f. 93.

47.

General Post Office,
November 19, 1705.

We herewith return you the act for erecting and establishing a post office at Philadelphia, in Pennsylvania, with our remarks thereupon, which we desire you will communicate to the Lords Commissioners for Trade and Plantations.

We are,

Sir,

Your humble servants,

R. COTTON,

THO. FRANKLAND.

Observations on the draft of an act for erecting and establishing a post office in Pennsylvania:

The preamble and recital must be altered in regard to the change of circumstances since the draft was made, which was before the decease of his late Majesty, Mr. Andrew Hamilton being since also dead.

Page 5th, wherein the rates of letters are settled, we are of opinion that the post of every single letter from Europe, the West Indies, or other parts beyond sea being fourpence, is too small, and that it ought to be at least as much as a letter from London to Dublin, which is sixpence, and whereas it is also there proposed that all letters are to be accompted single, tho' they contain merchants' accounts, none of them exceeding one sheet of paper, bills of lading, gazettes, invoices or bills of exchange, we are of opinion such inclosures ought to be taxed as in letters to and from Ireland, bills of exchange and invoices being allowed in foreign letters only.

And whereas it is proposed that for each letter from Boston or Rhode Island to Philadelphia, or from Philadelphia to Boston or Rhode Island eighteen pence be paid for the postage, we do think the postage ought only to be taken one way, as in the course of the letters passing through this office, where the postage is paid only at the receipt of letters, which will also more conform to the act of parliament here in England for erecting a post office, and in all probability may produce more

letters, it being found by experience that where the post is more easy letters do increase in proportion. The same objection is to be made also to the postage of all letters between Philadelphia and Piscatua, Connecticut, New York, Maryland and Virginia. This we only offer as what seems most likely to promote correspondence, but in case it may be more reasonable at the first for the encouragement of the proprietors to defray the charges of its first settlement to set the tax of letters at a higher charge or price, we do think that the full tax ought to be paid upon the receipt of the letters.

As to what is proposed that all letters from the proprietors and governors should go free, we can only say that we have by experience found that such a privilege is liable to many abuses.

Board of Trade, Proprieties, Vol. VIII, N. 57.

48.

A letter from Sir Robert Cotton and Sir Thomas Frankland, Postmasters General, dated yesterday, with their observations upon an act passed in Pennsylvania, entitled "An Act for erecting and establishing a post office," was read, and thereupon ordered that a copy of the said observations be sent to Mr. Penn.

Ordered that a letter be writ to Mr. Penn, to desire him to certify under his hand to the board which and how many of the laws now under consideration were actually passed by him in person during his stay in Pennsylvania.

And further ordered that so soon as Mr. Penn shall return an answer to the forementioned letter, the draft of a representation be prepared to lay the Pennsylvania laws before Her Majesty.

Board of Trade Journal, November 20, 1705, Vol. XVIII, f. 107.

49.

A letter from Mr. Penn in answer to one writ him the 20th instant, by which he certifies that the laws passed in Pennsylvania in 1700 and 1701, were passed by him whilst he was there, was read; and thereupon ordered that a letter be writ to Mr. Penn to desire him to certify the same in writing upon each of

the said laws, in order to their Lordships reporting the same to Her Majesty.

Ibid, November 22, 1705, Vol. XVIII, f. 112.

50.

Their Lordships took into consideration the draft of a representation upon the laws passed in Pennsylvania in 1700 and 1701, and made a progress therein.

Ibid, November 23, 1705, Vol. XVIII, f. 114.

51.

The draft of a representation upon the laws of Pennsylvania mentioned in the last minutes was agreed and ordered to be transcribed.

Ibid, November 26, 1705, Vol. XVIII, f. 115.

52.

Mr. Penn desired that he might have the body of the laws of Pennsylvania in order to the signing the same according to their Lordships' directions of the 22d of the last month, which were delivered to him accordingly, and he acquainted their Lordships that he had something to offer to the objections made by their Lordships to some of the said laws, which he would do in a day or two; and which he hoped would incline thir Lordships not to present the said laws to Her Majesty to be repealed.

Ibid, December 20, 1705, Vol. XVIII, f. 148.

53.

A representation upon the laws of Pennsylvania agreed the 26th of November last was now signed and sent to the council office.

Ibid, January 17, 1705-6, Vol. XVIII. f. 172.

54.

Representation upon the laws of Pennsylvania.

To the Queen's most excellent Majesty,

May it please your majesty:

Having received from William Penn, Esquire, proprietary of

your Majesty's province of Pennsylvania, a collection of laws under the seal of that province which he was certified to us to have been signed and passed by him there in the years 1700 and 1701. We humbly represent to your Majesty that by letters patent granted by your Majesty's royal uncle King Charles the Second to the said William Penn, Esquire, for the proprietorship and government of your Majesty's province of Pennsylvania bearing date the 4th of March, 1680, the said William Penn is empowered with the advice of the freemen of that province or their delegates in general assembly to enact laws for the good of the said province under a proviso that such laws be not repugnant or contrary to, but so far as conveniently may be agreeable with the laws of England, as also that a transcript or duplicate of all such laws be within five years after the making thereof transmitted and delivered to your Majesty's Privy Council, and that if any of the said laws within the space of six months after they shall be delivered as aforesaid be declared by your Majesty to be void, the said laws shall thenceforth become null and void accordingly, otherwise to remain in full force.

And we having considered the above said laws and received the opinion of your Majesty's Attorney-General thereupon in point of law do humbly represent that the Attorney-General has made objections against the passing several of the said laws, the title of which laws, together with his objections we have thereunto annexed, and do concur with him that the said laws be repealed by your Majesty.

We have likewise also examined all the other laws aforementioned with relation to the good government of that province, and the due regulation of trade, and do find divers reasons for your Majesty's disallowing and repealing several of the said laws, which reasons with the titles of such laws are also hereunto annexed.

As to the other laws, the titles whereof are likewise hereunto annexed we have no objections against the same, so that in case your Majesty do not see cause within six months from their being now delivered to your Majesty's Privy Council, to

repeal any of them they will remain in full force pursuant to the charter of proprietary granted to the said William Penn.

All which nevertheless is most humbly submitted.

DARTMOUTH,
ROBERT CECILL,
WILLIAM BLATHWAYT,
JOHN POLLEXFEN,
MATT. PRIOR.

January 17th, 1705-6, Whitehall.

Board of Trade, Proprieties, Vol. XXIX, f. 254.

55.

January 17, 1705-6.

List of the Pennsylvania laws against the passing of which the Lords Commissioners for Trade, etc., have made objections referred to in the foregoing representation:

An Act against menacing and assault and battery.

The words "menace, write or speak slightlying or carry themselves abusively" are too general and uncertain, and liable to be construed according to the humor of the courts. The penalty in the act is too general.

An Act against sedition, spreading false news and defamation.

In this act it is said "That if any person shall speak, act or write anything tending to sedition or disaffection to this government," such person is to be fined at the discretion of the justice of the respective county courts, not less than five pounds or three months' imprisonment. Instead of the words "sedition and disaffection to this government," ought to have been "against Her Majesty" or "this Her Majesty's government," for there cannot be any sedition but against Her Majesty.

An Act of privileges to a freeman.

This act ordains "That no freeman shall be hurt, damnified, destroyed, tried or condemned but by the lawful judgment of his twelve equals or by the laws of the province," which we think interferes with the act for preventing frauds and regulating abuses in the plantation trade, passed in the 7th and 8th years of the late King's reign, whereby admiralty courts are settled in the plantations.

An Act for the names of days and months.

Every man may call the days and months as he pleases.
This act is insignificant and not fit to remain in force.

An Act to ascertain the number of members of assembly and to regulate elections.

In this act advertisements for the day of elections are to be posted upon some tree or house in the way leading from every hundred or precinct to the capital towns and upon the court houses. It ought to have been churches, chapels and public meeting-houses.

An act directing the attests of several officers and ministers.

If the government be surrendered to Her Majesty this act ought not to be confirmed, because judges, justices, sheriffs, etc., are hereby required to promise fidelity to the proprietary. Besides none of the officers mentioned in this act are obliged to take an oath for the due execution of their places and trusts, but only to make an attestation in the town therein set down, which we think not sufficient. The words "master of the rolls" are not used in any other of Her Majesty's plantations and are peculiar to Her Majesty's officer in chancery here.

An Act against speaking in derogation of courts.

This enacts "That if any person shall speak rudely anything in derogation of any sentence or judgment given in any court or shall misbehave himself in the said court, such person shall be fined," etc. These words, we think, are too general and liable to arbitrary constructions.

An Act for the preservation of the person of the proprietary and governor.

We think this act is not fit to remain in force, the proprietary and governor having already the same protection by law as other Her Majesty's subjects.

An Act requiring all masters and commanders of all ships and vesesls to make report at the town of Newcastle that are or shall be bound to and from the sea.

By this law the proprietor and assembly of Pennsylvania assume a power in reference to trade which is vested by act of parliament in the commissioners of Her Majesty's customs under the directions of the Right Honorable the Lord High

Treasurer. Besides, if the government be surrendered to Her Majesty this act must not be confirmed, because part of the penalties are appropriated by the proprietary.

An Act for the levying of fines.

This act cannot be confirmed for the same reason, the fines being appropriated to the proprietary.

The Law against scolding.

The words "if any person shall be clamorous with their tongues," are too general and want explanation, and the penalty of standing gagged in some public place or five days' imprisonment at hard labor is too great. It is not said how long the person shall stand gagged.

An Act to prevent the sale of ill-tanned leather and working the same into shoes and boots.

It cannot be expected that encouragement should be given by law to the making any manufactures made in England in the plantations, it being against the advantage of England.

An Act that no public house or inn within this government be kept without license.

If the government be surrendered to Her Majesty this act cannot be confirmed, because these licenses are to be granted by the proprietary or his heirs, or his or their deputy-governor, and the penalties are in part appropriated to the proprietary.

An Act against pirates and sea-robbers.

This act cannot be confirmed because a late act of parliament passed in England has provided for these cases and commissions have been issued by Her Majesty accordingly.

An Act for erecting a bridge over the creek at Chester, in the county of Chester.

The first enacting clause begins "Be it enacted by the authority aforesaid," whereas there is only the governor and council mentioned before.

The Law about trials by twelve men.

This act as it is worded interferes with the above-mentioned act for preventing frauds and regulating abuses in the plantation trade.

An Act for establishing courts of judicature in this province and the counties annexed.

This act is so far from expediting the determination of law suits that we conceive it will impede the same.

An Act against swine running at large in several of the townships within this government.

This act also cannot be confirmed if the government be surrendered to Her Majesty, because the forfeitures are to the proprietary.

List of Pennsylvania laws against which there are no objections referred to in the foregoing representation:

An Act about boats and canoes.

An Act against forcible entry.

An Act against removing of landmarks.

An Act against defacers of charters, etc.

An Act for regulating the interest of money.

An Act against buying lands of the natives.

An Act directing how petty offenses shall be punished.

An Act for the better provision for the poor within this province and territories.

An Act about binding to the peace.

An Act for raising county levies.

An Act for the better attendance of the justices on the several courts of judicature within this province and territories.

An Act against jurors absenting themselves being lawfully summoned to attend the several courts of judicature within this province and territories.

An Act for the appraisement of goods.

An Act against barrators.

An Act to prevent the grievous sins of cursing and swearing within this province and territories.

An Act to prevent all dueling and fighting of duels within this province and territories.

An Act for the taking of lands in execution for the payment of debts where the sheriffs cannot come at other effects to satisfy the same.

An Act for the better regulation of servants within this province and territories.

An Act for erecting and establishing a post office.

An Act for the assize of bread.

An Act to empower the justices in each county to lay out and confirm all roads except the King's highways and public roads.

An Act for regulating and maintaining of fences.

An Act for the erecting of bridges and maintaining highways.

An Act against weirs cross creeks and rivers.

An Act against unseasonable firing of woods.

An Act about erecting and regulating the prices of ferries.

An Act to prevent sickly vessels coming into this government.

The Law about killing of wolves.

An Act for regulating of money-weights and for stamping the same.

An Act concerning bills of exchange.

An Act appointing the rate of money or coin within this province.

An Act for regulating weights and measures.

An Act for keeping a registry in religious societies.

An Act for the ascertaining the dimensions of casks and for the true packing of meat for transportation.

An Act about cutting timber trees.

An Act for granting an impost upon wines, rum, beer, ale, cider, etc., imported, retailed and sold in this province and territories. (Expired.)

An Act for raising one penny per pound and six shillings per head for support of the government and payment of debts and defraying the necessary charges thereof. (Expired.)

An Act for granting and raising to the proprietary and governor the sum of 2,000 pounds upon the clear value of all real and personal estates and upon the polls of all freemen within this province and the counties annexed. (Expired.)

An Act about country product to be current pay in the territories of the province of Pennsylvania.

The Law about court proceedings and summonses.

The Law about summoning of juries.

The Law about forms of writs.

The Law against persons judging in their own causes.

The Law about Indian traders.

The Law about officers' fees.

An Act for directing the punishment of larceny under five shillings.

An Act about attachments under forty shillings.

An Act for the preventing of clandestine marriages.

An act for preventing accidents that [may] happen by fire in the towns of Bristol (formerly called Buckingham), Philadelphia, Germantown, Darby, Chester, Newcastle and Lewes, within this government.

An Act for the sale of the court house and prison in the county of Chester.

An Act against selling rum and other strong liquors to the Indians.

An Act for the destruction of black birds and crows.

Board of Trade, Proprieties, Vol. XXIX, f. 282.

56.

Report of Mr. Attorney-General upon the acts passed at two general assemblies, the one held at Newcastle in November, 1700, the other at Philadelphia in October, 1701.

To the Right Honorable the Lords Commissioners for Trade and Plantations:

May it please your Lordships: In humble obedience to your Lordships' order of reference, signified to me by Mr. Popple, I have perused and considered of the several laws hereafter mentioned, passed in two general assemblies in Pennsylvania, the one held in November, 1700, and the other in October, 1701, viz.:

1. A. The Law concerning liberty of conscience.
2. B. An Act against riots, rioters and riotous sports, plays and games.
3. C. An Act against adultery, fornication, etc.
4. D. An Act against rape or ravishment.
5. E. An Act against incest, sodomy and bestiality.
6. F. An Act against bigamy.
7. G. An Act against robbing and stealing.
8. H. An Act about boats [and] canoes.
9. I. An Act against breaking into houses.
10. K. An Act against firing of houses, etc.

11. An Act against forcible entry.
12. An Act against menacing and assault and battery.
13. L. An Act against murder.
14. An Act against sedition, spreading of false news and defamation.
15. An Act against removing of landmarks.
16. An Act against defacers of charters, etc.
17. M. An act for county seals and against counterfeiting hands and seals.
18. An Act for regulating the interest of money.
19. An Act of privileges to a freeman.
20. An Act against buying lands of the natives.
21. An Act directing how petty offenses shall be punished.
22. An Act for the names of days and months.
23. An Act for the better provision of the poor within this province and territories.
24. N. An Act about the recording of deeds.
25. An Act about binding to the peace.
26. O. An Act limiting the presentments of the grand jury.
27. An Act to ascertain the number of members of an assembly and to regulate the elections.
28. P. The Law about attachments.
29. Q. An Act for naturalization.
30. R. An Act for the ascertaining the descent of lands and better disposition of the estates of persons intestate.
31. An Act for raising county levies.
32. An Act directing the attests of several officers and ministers.
33. An Act for the better attendance of the justices of the several courts of judicature within this province and territories.
34. An Act against jurors absenting themselves being lawfully summoned to attend the several courts of judicature within this province and territories.
35. S. An Act to prevent immoderate fines.
36. T. An Act about defalcation.
37. U. The Act determining of debts under forty shillings.

38. An Act against speaking in derogation of courts.
39. An Act for the appraisement of goods.
40. An Act against barrators.
41. W. An Act to oblige witnesses to give evidence and prevent false swearing.
42. X. An Act confirming devises of lands and validity of nuncupative wills.
43. An Act to prevent the grievous sins of cursing and swearing within this province and territories.
44. An Act to prevent all dueling and fighting of duels within this province and territories.
45. Y. The Act empowering widows and administrators to sell so much of the lands of testators as may be sufficient to clear their debts, etc.
46. An Act for the preservation of the person of the proprietary and governor.
47. Z. An Act for the taking lands in execution for the payment of debts where the sheriff cannot come at other effects to satisfy the same.
48. An Act for the better regulation of servants in this province and territories.
49. An Act for erecting and establishing a post office.
50. An Act for the assize of bread.
51. Aa. An Act for priority of payments to the inhabitants of this government.
52. An Act to empower the justices in each county to lay out and confirm all roads except the King's highways and public roads.
53. An Act for regulating and maintaining of fences.
54. An Act for the erecting of bridges, and maintaining highways.
55. An Act against weirs cross creeks and rivers.
56. An Act against unseasonable firing of woods.
57. An Act about erecting and regulating the prices of ferries.
58. Bb. An Act for the trial of negroes.
59. An Act to prevent sickly vessels coming into this government.

60. An Act requiring all masters and commanders of all ships and vessels to make report at the town of Newcastle which are or shall be bound to and from the sea.
61. An Act for the levying of fines.
62. Cc. The Law about departers out of this province.
63. Dd. An Act against mixing and adulterating strong liquors.
64. The Law against scolding.
65. The Law about killing of wolves.
- [66.] An Act for regulating of money weights, and for stamping the same.
67. An Act concerning bills of exchange.
68. An Act appointing the rate of the money or coin within the province and territories and for preventing the clipping of the same. (Repealed.)
69. An Act for regulating weights and measures.
70. An Act to prevent the sale of ill-tanned leather and working the same into shoes and boots.
71. An Act for keeping a registry in religious societies.
72. An Act that no public house or inn within this government be kept without license.
73. An Act for the ascertaining the dimensions of casks, and for the true packing of meat for transportation.
74. An Act about cutting timber trees.
75. Ee. The Law against drunkenness and healths-drinking.
76. Ff. An Act [for] bailing of prisoners and about imprisonment.
77. An Act against pirates [and] sea-robbers.
78. An Act for granting an impost upon wines, rum, beer, ale, cider, etc., imported, retailed and sold in this province and territories. (Expired.)
79. An Act for raising one penny per pound and six shillings per head for support of the government and payment of debts, and defraying the necessary charges thereof. (Expired.)
80. An Act for granting and raising to the proprietary and governor the sum of two thousand pounds, upon the

clear value of all real and personal estates, and upon the polls of all freemen within this province and the counties annexed. (Expired.)

81. Gg. An Act for the effectual establishment and confirmation of the freeholders of this province and territories, their heirs and assigns in their lands and tenements.
82. An Act for erecting a bridge over the creek at Chester, in the county of Chester.
83. An Act about country product to be current pay in the territories of the province of Pennsylvania.
84. The Law about court proceedings and summons.
85. The Law about trials by twelve men.
86. Hh. The Law about arrests and making debtors pay by servitude.
87. Ii. The Law about false imprisonment.
88. Kk. The Law about acknowledging deeds in court.
89. Ll. The Law about seven years' possession.
90. The Law about summoning of juries.
91. Mm. The Law about the manner of giving evidence and against such as lie in conversation.
92. The Law about forms of writs.
93. The Law against persons judging in their own causes.
94. The Law about Indian traders.
95. The Law about officers' fees.
96. Nn. The Law for confirmation of the laws of this government.
97. An Act for establishing courts of judicature in this province and the counties annexed.
98. An Act for directing the punishment of larceny under five shillings.
99. An Act about attachments under forty shillings.
100. An Act for the preventing of clandestine marriages.
101. An Act for preventing accidents that [may] happen by fire in the towns of Bristol (formerly called Bucking-ham), Philadelphia, Germantown, Darby, Chester, Newcastle and Lewes, within this government.

102. An Act against swine running at large in several of the townships within this government.
103. An Act for the destruction of blackbirds and crows.
104. An Act for the sale of the court house and prison in the county of Chester.
105. An Act against selling rum and other strong liquors to the Indians.

A. And as to the law concerning liberty of conscience, by which liberty of conscience is allowed every person that shall only own that God Almighty is the Creator, Upholder and Ruler of the World, and that he is obliged in conscience to live peaceably and quietly under the civil government, and every person so professing is to be unmolested for his conscientious persuasion or practice, and is not obliged to any religious worship whatsoever, but on Sunday are only enjoined for their ease to abstain from toil and labor. I am of opinion that this law is not fit to be confirmed, no regard being had in it to the Christian religion, and also for that in the indulgence allowed to the Quakers in England, by the statute of the first by William and Mary, chapter 18 (which sort of people are also the principal inhabitants of Pennsylvania), they are obliged by declaration to profess faith in God and in Jesus Christ his Eternal Son, the true God and in the Holy Spirit one God blessed for evermore, and to acknowledge the scriptures of the old and new testaments to be given by divine inspiration, and also for that none can tell what conscientious practices allowed by this act may extend to.

B. As to the act against riots, rioters and riotous sports, plays and games. As far as it concerns riots only, I have no exception to it; but a penalty of twenty shillings is laid on the introducer of rude or riotous sports or prizes, stage plays, masks, revels, bull baitings, cock fightings, bonfires, with such like, or shall practice the same, which (such like) I am of opinion leaves too great room to make persons offenders by construction at the will of the judge. The like objection is to another part of this law that makes every person to forfeit five shillings, or to be imprisoned five days in the House of Correction, that shall be convict of playing at cards, dice, lottery or such like entic-

ing, vain and evil sports and games; and besides I think some innocent sports are thereby prohibited without reason.

C. As to the act against adultery and fornication, I am of opinion the same is not fit to be confirmed, for by this law for adultery a bill of divorce is allowed to the injured husband and wife, but the divorce is not explained, whether to be *a vinculo matrimonii* or only from bed and board, as the ecclesiastical laws of England allow, which I think ought to be ascertained. And for fornication, among single people, they are to marry which may be unreasonable, where young men may be drawn in by lewd women, and the clause therein touching a married woman having a child in the absence of her husband, makes her an adulteress unless she can prove by credible evidence that her husband cohabited or was in company with her, or had been in the county where she lived, within a year before the birth of such child, which may in many cases be difficult on honest married women who have husbands that are seafaring persons or otherwise employed from home.

D. As to the act against rape or ravishment. I think the same ought not to be confirmed, for that castration is part of the punishment for the second offense, which I think unreasonable, especially in case of a married man. Besides that is a punishment never inflicted by any law in any of Her Majesty's dominions, and no care is taken for healing the castrated person.

E. As to the act against incest, sodomy and bestiality. I think the punishment of incest (intended by this law) without ascertaining what it is, by annexing a table of the degrees of kindred, will be inconvenient and unreasonable. Besides the incest intended by this bill doth appear to be by marrying which is only incest, for it is such incest that a married man may commit. Likewise castration of a married man is part of his punishment for sodomy or bestiality, and there is no punishment for bestiality in a woman but to be divorced from her husband, which divorce is not ascertained what it is to be.

F. As to the act against bigamy. I think it unreasonable, for it divorces the first wife and yet makes the husband a pris-

oner for life at hard labor for the benefit of her and her children.

G. As to the act against robbing and stealing. I am of opinion it is too large, being not only for stealing but also for fraudulently taking or carrying away of goods, which is unreasonable, for fraudulently taking may be by construction of law where no consideration is, and the punishment, besides, is too great for a fraudulent taking that is not felony by the law of England.

H. As to the act about boats and canoes. I think it fit to be confirmed for a time only, there being a penalty of double the value of a boat that shall be set adrift without consent or leave of the owner.

I. As to the act against breaking into houses. By this act whosoever shall break into the dwelling house, shop, workhouse or store of any other person, but it is not said (as it should have been) and shall steal, or with intent to steal. Besides the punishment is fourfold satisfaction for what shall be taken, to be publicly whipped and to suffer six months' imprisonment, and to be sold for the forfeiture if not able to pay, and not said for how long, and selling a man is not a punishment allowed by the law of England. Therefore I think this act not proper to be confirmed.

K. As to the act against firing of houses, etc. I have no objection against it, but that the party offending is to be sold for fourfold satisfaction for hay and corn burned, if unable to pay.

L. As to the act against murder, whereby whoever shall willfully or premeditately kill another person, or be the cause of or accessory to the death of any person, shall suffer death. I think it unreasonable, for that willful killing may be in a sudden affray. Therefore it should not be willfully or premeditately, but willfully and premeditately.

M. As to the act for county seals and against counterfeiting hands and seals, whereby counterfeiting or imitating any seal is punishable. I think the word imitating too far, it being general, and not said with intent to defraud. There may be innocent imitation.

N. As to the act about recording of deeds, which makes

deeds good that are not enrolled, since former laws did require enrolment of deeds. An after-purchaser whose deed is enrolled may be ever reached by allowing, as this act doth, a former deed to be good which was not enrolled, and makes enrolments of deeds not necessary, but evidence if enrolled. I think it unreasonable to take off the necessity of enrolment, which is a great security to titles in all the plantations.

O. As to the act limiting the presentments of the grand jury. By this law all indictments for trespass are taken off where there is remedy for the party injured before the justices. I think it not reasonable, for that there may be prosecution for the Crown also as well as at the suit of the party for his damages.

P. As to the law about attachments. It being to condemn the goods and lands of persons only out of the plantations, will prejudice all owners of lands and traders remaining in England. Therefore, I think it unreasonable and not fit to be confirmed.

Q. As to the act for naturalization. By this act power is given to the proprietor or governor to naturalize all foreigners coming to the plantation. All that were there before the grant to [the] proprietor, whether Dutch, Swedes, or Danes, are naturalized by this act, and since the proprietor hath no such power by his grant, I think it not fit for him to give it himself by this act.

R. As for the act for ascertaining discount of lands, and better disposition of the estates of persons intestate. This law giving a power to executors of persons dying and also making the real estates as well as the personal estates of persons dying intestate to be distributed as personal estates of intestates are distributable in England, I think is inconvenient and unreasonable, especially because many of the owners of lands there are inhabitants in England. Besides personal estates of persons dying intestate, are hereby made distributable otherwise than they are in England, which may affect the interest of persons residing in England.

S. As to the act to prevent immoderate fines. This act is against the law of England, which is so only in case of amerce-

ments not of fines, for if offenders have only furniture of their calling and means of livelihood, they are not to be fined anything by this law, and no direction is given by it for corporal punishment instead of a fine, which would have made this law reasonable.

T. As to the act about defalcations. This is a good law, but had been better if the setting off of debts on stating accounts had been general, and not restrained to the setting off of debts against others of the like dignity only.

U. As to the act for determining of debts under forty shillings. This same is a good law. But rent should have been excepted out of it, which being for lands, the title of the lands may come in question, as if an eviction be pleaded by the tenant which it's not reason to have so arbitrarily and finally determined as this law allows.

W. As to the act to oblige witnesses to give evidence and to prevent false swearing. This act requires two witnesses in all criminal cases, where by the law of England one is sufficient, unless in case of treason and for small criminal matters not capital. I see no reason to require two witnesses, and great inconveniences may happen by it, and the trial there being by jury they will judge of the credit of the single witness.

X. As to the act confirming devises of lands and validity of nuncupative wills, which makes all devises of lands good if the wills in writing be legally proved in the province within six months after the testator's death, or within eight months if the testator lived out of the government. I think it unreasonable, for that if a will be made in England and all the witnesses here, they must be carried over to the province to prove it there, which it will not be in the power of the devisee to do. Therefore, all that will be reasonable in this case to enact will be that the will be proved in the province or in the chancery in England, and the bill, answer and depositions be transmitted thither under the seal of that court to be there registered. This law also makes a nuncupative will good, so that it be reduced into writing within two days after the decease of the testator and subscribed by two witnesses who were present at the making and attested by a justice of the peace within ten days

after the death of the testator, which is different from the act of frauds in England, which doth not allow any proof of a nuncupative will after six months after speaking unless it be within six days after making, the will [be] put in writing, and I am of opinion it is necessary to have the law for wills the same as in England [is] by that statute.

Y. As to the act for empowering widows and administrators to sell so much of the lands of intestates as may be sufficient to clear their debts, etc. By this law a person dying intestate having legal issue, and not having a sufficient personal estate to pay his debts, the widow or administrator of such person may sell such part of the intestate's land as the Orphans' court shall think fit, towards defraying just debts, education of his children and improving the remainder of the estate, if any be, to their advantage. Therefore, I think it unreasonable for that such sale may be made notwithstanding any marriage settlement, and there is no rule set in what manner younger children and in what the elder shall be provided for.

Z. As to the act for the taking lands in execution for the payment of debts where the sheriff cannot come at other effects to satisfy the same. By this act all lands are liable to sale on judgment, so that the messuage and plantation where the defendant lives be not sold in less than a year after judgment and before sale the lands to be appraised by twelve men of the neighborhood, and then to be sold by the sheriff, and such a sale shall make a fee simple estate therein to the buyer or creditor as fully as they were to the debtor, and lawful interest to be allowed for money recovered from the time of the judgment till satisfaction made. This law differs from the law of England, but may be practicable there.

Aa. As to the act for priority of payments to the inhabitants of this government. This law prefers debts on simple contracts due to the inhabitants before all foreign debts, which being prejudicial to the people of England is fit to be rejected. In this law there is a proviso for factors at coming into that colony to enter into the county court the name of the person adventuring by him, and the value of the goods adventured, in which case such adventurers may come in for their debts with

the inhabitants. But I think it unreasonable to exclude the adventurer, if his factor will not make such entry, and if no such entry made by the factor, then the goods are to be taken to be his own, so far as to be liable to his debts in the country, which is unreasonable.

Bb. As to the act for the trial of negroes. I see no objection against it but that a negro is to be castrated for attempting to ravish a white woman.

Cc. As to the act about departers out of this province. It obliges all masters of vessels coming to that province to give three hundred pounds bond to the naval officer, to observe the laws of that government, which I take to be unreasonable, since all the people of England have a right of trading thither, and ill use may be made in the plantations of such bonds if given.

Dd. As to the act against the using and adulterating strong liquors. It lays a severe penalty on any person selling rum, etc., mixed or adulterated with water or any other liquor by the judgment of two credible evidences being convicted thereof, and therefore I think it unreasonable, it not being said knowing the same to be mixed.

As to the act for appointing the rate of the money or coin within this province and territories, and for preventing the clipping of the same. I think this law fit to be repealed, Her Majesty by her proclamation having settled the value of coins in all the plantations. (Repealed.)

Ee. As to the law against drunkenness and healths-drinking. By this law penalties are laid on persons for drinking healths without being drunk, which is unreasonable.

Ff. As to the act for the bailing of prisoners and about imprisonment. This law gives double damages against informers or prosecutors, where a man is wrongfully imprisoned, which will be so where the person prosecuted is acquitted, which will discourage prosecutions on probable causes. Therefore this law, not excepting where there is probable cause for the prosecution, I take to be unreasonable and not to be confirmed.

Gg. As to the act for the effectual establishment and confirmation of the freeholders of this province and territories, their heirs and assigns in their lands and tenements. By this

law all the titles under the Crown before the grant to the proprietor and all his grants are confirmed, and the lands of any person may be resurveyed within two years after the publication of this act, by the proprietor or his heirs, and the proprietor to have the overplus measure and the possessor to have the refusal, and if less than measure, the proprietor to make good the deficiency. This is relating to the property of the governor and inhabitants only, and though inconveniences may happen by it after a long possession, yet if the governor and council like it, I have nothing on that account to object against it.

But there is a clause which makes a survey good, notice being given to two neighbors, if the owner of the land be not known, which is unreasonable, to bind a man by a survey which he hath no opportunity to be present at.

There is also a proviso that the survey shall not conclude infants, persons beyond sea, married women or lunatics, and yet no further time than the two years is given to survey where such are concerned, which may render the law in great part useless.

There is a clause here which allows lands purchased by aliens who die before they are naturalized to descend to their wives and children, which I take to be unreasonable, in letting in aliens to purchase and inherit before and without being obliged to be naturalized; and this implies that every alien that will come there, how inconvenient soever his being there may be, may demand and be naturalized.

This act also confirms all sales made by attorneys, and the same is not restrained to such sales as shall be made while their authorities are in force, which ought to have been mentioned.

Hh. As to the law about arrests and making debtors pay by servitude. This law subjects a man to pay his debts by servitude if desired by the plaintiff, where there is no visible estate, which may subject masters of ships and others coming to that plantation to slavery, which I take to be unreasonable.

Ii. As to the law about false imprisonment. By this law double damages are given against the prosecutor for wrongful

imprisonment, which I take to be unreasonable, it not being said "or without probable cause."

Kk. As to the law about acknowledging deeds in court. By this law a deed delivered into the court by the attorney of the maker thereof is to stand good to all intents and purposes, which seems unreasonable, there not being expressly reserved a liberty of controverting the authority of the attorney, nor any direction to the court to examine the power of the attorney.

Ll. As to the law about seven years' possession. This law is unreasonable in giving an unquestionable title by seven years' possession, not excepting the possessors by virtue of particular estates as for years, life or entail, which possessions ought to end with their estates.

Mm. As to the law about the manner of giving evidence and against such as lie in conversation. By this law every evidence convict of willful falsehood, shall suffer such penalty and damage as the person against whom he bore false witness should have undergone if guilty, and make satisfaction to the party wronged and be infamous. This is further than the law of England, for if a felon be acquitted and the witness be convicted he is to be hanged, it not being restrained to civil cases.

Nn. As to the law for the confirmation of the laws of this government. This act confirming all the laws made in the year 1700, is not to be confirmed if any one of them be repealed.

As to the act for raising one shilling per pound and six shillings per head for the support of the charge of the government and the act for raising two thousand pounds for the governor, I find they are expired, and as to all the rest of the said laws, I find nothing therein disagreeable to law or justice, or prejudicial to Her Majesty's royal prerogative.

All which is humbly submitted to your Lordships' great wisdom.

EDWARD NORTHEY.

Board of Trade, Proprieties, Vol. XXIX, f. 165.

sylvania, repealing several of the said laws according to the said representation was read.

Board of Trade Journal, February 26, 1705-6, Vol. XVIII, f. 228.

58.

At a Council held at Philadelphia, the 31st August, 1706.

Present:

The Honorable John Evans, Esquire, Lieutenant-Governor.
Edward Shippen, Esquire. Jasper Yeates, Esquire.
Samuel Carpenter, Esquire. William Trent, Esquire.
Griffith Owen, Esquire. Joseph Pidgeon, Esquire.
James Logan, Esquire.

An order of the Queen in council, dated at the Court of St. James the seventh day of February last past, sent over by the proprietor was read, in which order are recited the titles of one hundred and five laws passed by the proprietor and governor and the freemen of this province and territories in Assembly met, and presented to the Queen for her royal approbation who has been pleased to disallow and repeal fifty-two of the said laws and declared them to be void and of no effect for the reasons rendered by the Lords Commissioners for Trade and Plantations, and the Queen's Attorney-General in England, whose objections have also been sent over, with which orders it being necessary that the courts and magistrates of this government should be acquainted,

'Tis ordered that copies of the said order, or so much thereof as is necessary be forthwith drawn out and sent to the clerks of each county in this government respectively, who are required to communicate the same to the magistrates, and to note the said laws that are so repealed in the proper margin of their books of exemplifications of the said laws, as also to note which of the said repealed laws have been re-enacted since the year 1701:

'Twas moved, upon consideration of the said repeal, that it would be absolutely necessary that the assembly of the province should meet as soon as possible to re-enact such of the said laws as were of importance to the country and are not yet

re-enacted, answering the objections made against them by the Lords Commissioners or Attorney-General, and 'tis ordered thereupon that the assembly meet on the 18th day of September next ensuing.

Colonial Records, Vol. II, f. 251.

APPENDIX II.

Papers relating to the acts passed by the fifth assembly, under the charter of 1700, from October 14, 1705, to September 27, 1706.

SECTION I.

1. Gov. Evans' ordinance for establishing courts.

SECTION II.

1. Order in Council, January 8, 1707-8.
2. Letter from Gov. Evans, January 19, 1705-6.
3. Board of Trade Journal, June 17, 1706.
4. Board of Trade Journal, June 28, 1706.
5. Board of Trade Journal, July 8, 1706.
6. Opinion of Sir Edward Northey, July 9, 1706.
7. Board of Trade Journal, July 10, 1706.
8. Board of Trade Journal, July 11, 1706.
9. Board of Trade Journal, November 6, 1706.
10. Memorial of George Willcocks, November 6, 1706.
11. Memorial of George Willcocks, November 26, 1706.
12. Board of Trade Journal, November 27, 1706.
13. Board of Trade Journal, December 10, 1706.
14. Board of Trade Journal, January 3, 1706-7.
15. Board of Trade Journal, June 30, 1707.
16. Board of Trade Journal, July 3, 1707.
17. Board of Trade Journal, July 15, 1707.
18. Board of Trade Journal, July 18, 1707.
19. Board of Trade Journal, October 20, 1707.
20. Board of Trade Journal, December 1, 1707.

21. Board of Trade Journal, December 10, 1707.
22. Board of Trade Journal, December 29, 1707.
23. Board of Trade Journal, December 30, 1707.
24. Letter and Representation of the Board of Trade, December 30, 1707.
25. Board of Trade Journal, January 21, 1707-8.

SECTION II.

1. Order in Council, October 24, 1709.
 2. Order in Council, April 28, 1709.
 3. Board of Trade Journal, May 5, 1709.
 4. Board of Trade Journal, May 6, 1709.
 5. Board of Trade Journal, May 23, 1709.
 6. Board of Trade Journal, May 24, 1709.
 7. Board of Trade Journal, August 9, 1709.
 8. Opinion of James Mountague, August 30, 1709.
 9. Board of Trade Journal, September 2, 1709.
 10. Board of Trade Journal, September 6, 1709.
 11. Board of Trade Journal, September 8, 1709.
 12. Representation of the Board of Trade, September 8, 1709.
 13. Board of Trade Journal, September 15, 1709.
 14. Board of Trade Journal, October 18, 1709.
 15. Board of Trade Journal, October 27, 1709.
 16. As to Chapter 164, see Appendix 2, section II, paragraph 9.
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APPENDIX II.

SECTION I.

Ordinance for Establishing of Courts.

Whereas the Queen's most excellent Majesty by her order in Council held at St. James on the seventh day of February, in the year one thousand seven hundred and five, was pleased to repeal [and] declare to be utterly void several laws formerly enacted in this government, amongst others, one certain law entitled "An act for establishing courts of judicature in this

province," and upon the publication of which order all the several courts that were founded upon the said act became discontinued, and thereupon an entire failure in the administration of justice in this province has ensued. And whereas, the present house of representatives of the said province, having undertaken to provide another act for reviving and establishing the said courts, have not yet thought fit to agree to such a bill for that purpose, as in the just discharge of the trust reposed in me by the Queen's Majesty and the proprietary, I could by any means assent to, by reason of which Her Majesty's subjects here have been long deprived of the common benefit of a public administration of justice by courts of judicature, for remedy whereof, I have after a long delay found myself obliged by virtue of the royal letters patent of King Charles the Second, granting unto the proprietary and his heirs and to his other deputies and lieutenants (in the following words) full power and authority to appoint any judges and justices, magistrates and officers whatsoever for what causes soever and to do all [and] every other thing and things which unto the complete establishment of justice unto courts and tribunals, forms of judicature and manner of proceedings do belong, although in these presents express mention be not made thereof, etc., to restore the said courts of judicature, and for the general benefit and advantage of Her Majesty's subjects therein, to open the current of public justice again; and accordingly by virtue of the powers aforesaid, I have by the advice of the council thought fit to appoint and establish and do by these presents ordain and declare to be appointed and established for the public administration of justice in the said province, the several courts and judiciary herein-after following: (That is to say) that there shall be holden and kept a court of record in every county of this province, that is to say at Philadelphia, twice in every year for the county and city of Philadelphia, on the tenth day of April and the four-and-twentieth day of September; at Bristol, for the county of Bucks, on the fourteenth day of April and the eight-and-twentieth day of September; and at Chester, for the county of Chester, the eighteenth day of April and second day of October;

which said court shall be called and styled the supreme or provincial court of Pennsylvania. And there shall be three persons of known integrity and ability appointed and commissionated by the governor or his lieutenant, from time to time, by several distinct patents or commissions, under the great seal of this province, to be judges of the said court, one of whom shall be distinguished in his commission by the name of Chief Justice. Which said judges or any one of them shall have full power to hold the said supreme courts, and therein to hear and determine all pleas, plaints and causes which shall be removed or brought there from the court of general quarter-sessions of the peace, or county court of common pleas or from the sessions or court of records, held for the city of Philadelphia, or from any other court or courts of record within the said respective counties, by writs of *habeas corpus*, *certiorari*, writs of error, prohibitions, injunctions, *audita querela*, or any other remedial writ or writs, of what nature or kind soever. And to examine and to correct all and all manner of errors of the justices and magistrates of this province, in their judgments, process, proceedings, as well in all pleas of the crown as in all pleas real, personal and mixed, and thereupon to reverse or affirm the said judgments as the law doth or shall direct. Also to examine, correct and punish the contempts, omissions, favors, corruptions and defaults of all justices of the peace, sheriffs, coroners, clerks and other officers, within the said respective counties, and generally shall minister common justice to all persons, concerning all and singular the premises according to law, as fully and amply to all intents and purposes whatsoever as the justices of the Court of Queen's bench, common pleas and exchequer, at Westminster, may or can do. All which said writs and every of them shall be granted of course and shall issue forth of the office of the clerk or prothonotary of the said supreme court, and shall be made in the name and style of the Queen, her heirs and successors, and bear test in the name of the said chief-justice for the time being, and shall be sealed with the provincial seal or seal of the said province. And I do further ordain by the authority aforesaid, That there shall be a court of equity held by the judges of the said re-

spective supreme or provincial courts, in every county of this province, which said judges or any of them within the limits of their commissions shall have full power and are hereby empowered and authorized to hear and decree all such matters of equity as, by appeals from the respective inferior courts, shall come before them, and thereupon to revoke, make void, alter or confirm, such decrees and sentences, acts or proceedings of the said inferior courts relating thereto, and to make such decrees and take such orders therein, as shall be agreeable to equity and justice, with full power by legal and due process to force obedience to their decrees or judgments. And I do further ordain by the authority aforesaid, That there shall be a competent number of justices in every of the said counties, nominated, appointed [and] authorized by the governor, or lieutenant-governor for the time being, by commission under the broad seal of this province, which said justices or any three of them shall and may hold the said general sessions of the peace and goal delivery. And each of them shall keep or cause [to] be kept the peace of our said Lady the Queen, her heirs and successors, and all acts and statutes made and to be made for the conservation of the peace, and for the quiet rule and government in the respective counties for which they shall be so commissionated, according as those acts and statutes do or shall direct; and to chastise and punish all persons offending against those acts and statutes, with full power and authority to and for the said justices to award process, bind to the peace, and good behavior, and to hear, try and determine, all and all manner of matters, causes and things whatsoever, as near as conveniently may be to the laws of England, and according to the laws and usages of this province, with full powers to hold special and private sessions, when and as often as occasion shall require as any justice or justices of the peace in England, in and out of their sessions, may or can do, which said general quarter-sessions of the peace in the respective counties of this province, shall begin on the Tuesday of the same week in which the respective county courts of common pleas hereafter mentioned are appointed to be held. And I do further ordain by the authority aforesaid, That the justices of the said courts of

general quarter-sessions of the peace, in their respective counties for which they are commissionated, as aforesaid, shall hold and keep a court of record in every county which shall be called and styled the county court of common pleas and shall be holden four times in every year, at the places where the said quarter-sessions of the peace shall be respectively kept as aforesaid: (That is to say) at Philadelphia, for the county and city of Philadelphia, the first Thursday in the months of March, June, September and December; at Bristol, for the county of Bucks, the second Wednesday in every of the aforesaid months; at Chester, the last Wednesday in the months of February, May, August and November; which said justices, or any three of them, shall hold pleas of assize, [issue] *scire facias*, replevins, and hear and determine all and all manner of pleas, actions, suits and causes, civil, personal, real and mixed, as near as conveniently may be the course and practise of the Queen's court of common pleas in England and according to the laws and constitutions of this province, from time to time, having due regard to the regular process and proceedings of former county courts, always keeping (as near as may be) to brevity, plainness and verity, in all declarations and pleas. And that all writs and process upon the pleas, plaints and actions aforesaid, shall as heretofore issue out of the office of the clerk or prothonotary of the said respective counties under the respective county seals, into whose office all returns shall be made. And I do further ordain by the authority aforesaid, That any one or more of the said justices, in every county of this province, as they shall see occasion, may sit once in every six weeks at the place where the said courts of common pleas shall be usually held, to the end only that the original writs and process may be made returnable there, and rules for pleas, replication and other pleadings may be there given and issue joined, and other preparations made for expediting the trials of causes depending in the said county courts of common pleas. And I do further ordain by the authority aforesaid, That there shall be a court of equity held by the justices of the said respective county courts of common pleas, four times a year at the respective

places and near the said times as the said courts of common pleas are held in every county of this province, and that the prothonotary of the common pleas shall be the register of the said court of equity in every county. Which said justices, or any three of them, within the limits of their commissions, shall have full power and are hereby empowered and authorized to hear and decree all such matters and causes of equity as do or shall come before them in the said courts, where the proceedings shall be as heretofore by bill and answer, with such other pleadings as are necessary in chancery courts, proper in these parts, with power also, for the said justices of the respective courts of equity to issue all manner of subpoenas, and all other process as may be needful to oblige and force the defendants to answer suits there, as also to award commissions for taking answers and examining witnesses, and to grant injunctions for staying suits in law, and stopping waste as there may be occasion, observing as near as may be the practise and proceedings of the high court of chancery in England; with power also to make orders and award all manner of process and do all other things necessary for bringing causes to hearing and to force obedience to their decrees in equity, as the laws and practise in such cases doth or shall direct, and admit of bills of review as the case may require. And for the better execution of the powers and jurisdiction hereby erected or intended, it may be lawful to and for the said judges and justices of the said respective courts to make and publish all and every such reasonable rules and orders as may be fit and necessary to regulate the officers, and ascertain the practise of the courts they belong to. And I do further ordain, That special commissions of oyer and terminer and gaol delivery may be granted unto any the respective counties of this province, for the hearing, trying and determining of all high and capital offenses, where the life of any person may or shall be brought in question. And I do further ordain, That if any person or persons being defendant or defendants in any suit or action, who shall, by reason of their speedy departure out of this province, require a more speedy determination in the premises than can be had in the said county court of common pleas, upon application to

the justices of the said county court of common pleas they may grant such defendants special courts, and may proceed to hear and determine the premises, such persons having first given sufficient bail to stand to and abide their judgment, according to the course and practise of the said county court of common pleas. Given under my hand and great seal of the province at Philadelphia, the two-and-twentieth day of February, in the fifth year of the reign of our Sovereign Lady, Ann, by the Grace of God of England, Scotland, France and Ireland, Queen, defender of the faith, etc., *Annoq. Domini 1706.*

JOHN EVANS.

Recorded 11th month 2, 1707, Patent Book A. 4-34.

APPENDIX II.

SECTION II.

1.

At the court at Kensington, the 8th of January, 1707-8.

Present:

The Queen's most excellent Majesty in Council.

Whereas by letters patent granted under the great seal of England to William Penn, Esquire, proprietor of the province of Pennsylvania in America, he is empowered with the advice of the freemen of that province or the [sic] deputy's in general assembly, to enact laws for the good government of the said province under a proviso that such laws be not repugnant or contrary to, but as far as conveniently may be agreeable with, the laws of England, which laws are to be transmitted to Her Majesty for her royal approbation or disallowance of them.

And whereas the Lords Commissioners for Trade and Plantations having had under consideration the following act which was this day laid before Her Majesty in council, viz.:

“An Act directing the qualifications of all magistrates and officers, also the manner of giving evidence;”

the which act having been perused and duly considered by the said Lords Commissioners for Trade and Plantations, together with the opinion of Her Majesty's Attorney-General in point of law thereupon, and humbly offering their opinion that the said act be repealed, Her Majesty taking the same into consideration is graciously pleased with the advice of her privy council to declare her disallowance and disapprobation of the said act. And pursuant to Her Majesty's royal pleasure thereupon, the said act is hereby repealed, annulled and made void and of none effect to all intents and purposes whatsoever.

[A true copy.]

EDWARD SOUTHWELL.

Board of Trade, Proprieties, Vol. IX, f. 19.

2.

Right Honorable: The last trouble I gave your Lordships of this nature bore date the ninth of November via New York, which I doubt not is arrived, since which the annual assembly of this province has a few days ago ended their first sessions, having first agreed to a considerable number of acts, partly such as were excepted against by the Attorney-General, and the rest such new ones as the country seemed to stand in need of, of all which a copy shall be sent with all expedition to your Lordships as soon as they can be fairly transcribed, and a suitable opportunity shall present. But of these I think myself obliged in a more particular manner to acquaint your Lordships without any delay with two, being such as have given me the greatest concern, viz., one entitled "An act directing the qualifications of officers," etc., and the other "An act for the better proportioning the rates of money in payments made," etc. To the first, at my arrival in this province, I found an order of the Queen's most excellent Majesty in council, that was transmitted hither by your Lordships the year before, by which it was required that all persons in judicial or any other office or offices in Pennsylvania, etc., and before their entering on any such office or offices should take the oath directed by the law of England, or the affirmation allowed by the said law to Quakers, and that no judge should be allowed to sit upon the bench who should not first take the oath of a judge or in lieu thereof the aforesaid

affirmation as directed by the law of England; as also that all persons who in England are obliged and are willing to take an oath in any public or judicial proceeding be admitted so to do by the proper officers and judges in Pennsylvania, etc., in default of all which or in case the said judges shall refuse to administer the said oath or attestation Her Majesty was pleased to declare, etc.

To this a due obedience was generally paid throughout the government and has been so ever since, but there arose upon it one difficulty which made many of the people very uneasy, which was that though the Quakers were by the said order allowed to be in office, yet seeing they cannot administer an oath with any more freedom than they can take one, so in such cases where a magistrate is not present that can administer one (as in cases cognizable before one justice only as well as some others) it must often happen that it would inevitably occasion a failure of justice if nothing but a direct oath should be allowed to pass. I shall not here trouble your Lordships with a particular account of what passed on that head between me and the assembly, begging leave rather to refer your Lordships to the minutes of council taken somewhat too undigestedly perhaps, at a conference on that point, and to an address from the assembly to me upon the same of which copies come inclosed; but shall upon the whole observe that as her Sacred Majesty's orders shall always with me have the utmost force and efficacy of a law, so I proceeded with the greatest tenderness and caution upon it. But finding the country would by no means be satisfied, or the assembly depart or at least agree to anything of what importance soever unless they could have that piece of regard shown to the exigencies of their circumstances which they said so loudly called for it and which could scarce by any be interpreted to interfere or clash with Her Majesty's said order when reasonably expounded, I prevailed with them however to allow a sufficient time in the act, before it should be in force, to know Her Majesty's pleasure therein, that notwithstanding the bill had the sanction of an act here, yet nothing should be done by it till such time as Her Majesty, if found repugnant to her royal pleasure, might lay her com-

mands upon me and give directions what should be done in it (for the act takes not place till the twentieth of September, one thousand seven hundred and six), which I told them was the utmost and last point I could possibly strain to.

What in no small measure prevailed on me to agree to this bill so far as I have done was that it does really very much exceed what could be expected from an assembly of this province at this time, on the head, for oaths according to the Queen's order are therein allowed (as far as these people can express themselves upon that point) to all such as are willing to take them, if there be any magistrate present that can administer them (as in the courts of justice there will or may be always such). But in case of private magistrates, it may sometimes be otherwise, and where an oath cannot be taken (that is where a proper officer is not present to administer one), then the affirmation according to the law of England must, which by all mankind that consider it, is judged to be very obligatory and binding and very solemn. The only difference then between Her Majesty's order and this act consists in that difficulty which I have mentioned before and therefore shall not presume to repeat again, notwithstanding it's very possible and probable some here may raise objections which, if they do, will be no more than is too common in these parts from some or other upon everything that passes. I shall not for my own part offer anything further upon the head than to assure your Lordships that I have used the most tender regard possible to her Sacred Majesty's order, and that because this seemed not fully in all points to come up to that said order, therefore I endeavored entirely to divert it. But as I have mentioned before the representatives looked upon it of so great importance (as the mentioned address largely represents) that without it they could not account they had done anything, and seemed to take it more unkind of me to hesitate upon it because they had strained to the utmost to come up to what the Queen's order seemed to require of them; that if anything more was expected, they hoped upon a just consideration of their circumstances it would be dispensed with, and not imputed to any refractoriness but a disability to advance any further.

Your Lordships' great wisdom (without any further observations from me upon the papers that come herewith) will fully enable you to make a just and settled judgment of the matter, and all that I have to add upon it is that I beg your Lordships to favor me with your opinion and directions about it, hoping at the same time that the performance of my duty will therein appear.

For the second about the money, it is with no small regret, I have observed Her Majesty's proclamation so little complied with. But it was impossible for me to force it while the governments around us take no notice of it. New York being of so much more note and more immediately having the happiness of being under Her Majesty's directions than the adjacent colonies, will always serve for a precedent in such cases and their example very much lead their neighbors. All I can say to this act is that the people very much pressed for a better regulation, and yet till New York and others began could not be induced to fall in with the said proclamation. Observing this, I was of opinion that such an act as this reducing all weights to one certain common value, would the most of anything facilitate the practise of Her Majesty's proclamation whenever orders should come (upon the present general neglect) more effectually to put it in force throughout the continent.

And therefore I agreed that such a bill should be drawn up and passed, which because it is of such general use I caused to be printed, and accordingly I send your Lordships one.

I must further observe to your Lordships that by way of New York I received a letter for Her Majesty's service, signed William Popple, junior, informing me that Her Majesty having been pleased to issue her royal proclamation for a thanksgiving for a victory obtained by Her Majesty's army over the French in the Spanish Netherlands, he was commanded to send me the said proclamation, that I might appoint a day in a competent time after the receipt thereof for offering public thanks to Almighty God in this Her Majesty's province of Pennsylvania for so great and public a blessing. Which accordingly I have caused to be duly solemnized, though I was at a loss to know by whose order it was sent to me, whether from your Lordships'

Board or elsewhere, that being not mentioned in the least, and the gentleman a stranger entirely; and your Lordships will please to consider that in cases of this nature (however welcome the occasion may be as undoubtedly the success of Her Majesty's arms is very much so) when a government is to make so public and general an act as that of a proclamation for a thanksgiving and by command from home, they would do it upon sure grounds and motives and be well satisfied from whence such commands proceed. This, my Lords, is the only reason for my mentioning this letter.

Your Lordships will please to look upon the act aforementioned for directing the qualification of officers only as a copy, and not sent as the royal charter directs, for this with the rest must be copied and sent in pursuance thereof under the great seal of the province. This comes (as intimated before) to your Lordships that you might be fully apprised in due time of the nature of that act, and not be straitened in point of time to give your Lordships' sentiments and orders therein, the act commencing not till eight months hence, for which reason I have hastened this copy of it. I shall finish this trouble, assuring your Lordships and begging you to believe that I am with the greatest sincerity and deference,

My Lords, your Lordships' most faithful and most obedient servant,

JOHN EVANS.

Philadelphia, the Province of Pennsylvania, the 19th of January, 1705-6.

Board of Trade, Proprieties, Vol. VIII, O. 66.

3.

A letter from Mr. John Evans, deputy-governor of Pennsylvania, dated the 19th January, 1705-6, relating chiefly to two acts lately passed in that province, viz., "An act directing the qualifications of all magistrates and officers, also the manner of giving evidence," and "An act for the better proportioning the rates of money," etc., was read, and thereupon ordered that a copy of the first of the said acts, with an abstract of Mr. Evans' letter relating thereto be sent to Mr. Attorney-General.

eral for his opinion thereupon in point of law. The papers referred to in the foresaid letter were laid before the board and are as follows:

Minutes of council of the 9th January, 1705-6, upon a conference between that board and the assembly relating to the administering of oaths in judicial affairs.

Address of the assembly to the deputy-governor upon the same subject.

An Act directing the qualifications of all magistrates and officers, also the manner of giving evidence.

An Act for the better proportioning the rates of money in payments made upon contracts according to the former regulation.

Board of Trade Journal, June 17, 1706, f. 338.

4.

Mr. Penn communicated to their Lordships a list of the acts lately passed by his deputy-governor in Pennsylvania, and thereupon desired their Lordships to signify to the said deputy-governor their satisfaction with the assembly's having passed an act for the support of that government; whereupon a letter to Mr. John Evans, deputy-governor of Pennsylvania, was signed accordingly.

Ibid, June 28, 1706, f. 345.

5.

A letter from the Lord Bishop of London, dated the fourth instant, relating to an act lately passed in Pennsylvania, entitled "An act directing the qualifications of all magistrates and officers, as also the manner of giving evidence," was read, and thereupon ordered that a letter be writ to Mr. Borret for the expediting Mr. Attorney-General's opinion upon the said act, which was sent him on the 19th of the last month.

Ibid, July 8, 1706, f. 353.

6.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

May it please your Lordships: In obedience to your Lordships' commands signified to me by Mr. Popple I have con-

sidered of an act made in Pennsylvania, entitled "An act directing the qualifications of all magistrates and officers, also the manner of giving evidence;" and in regard as is stated the greatest part of the inhabitants of that province are Quakers. The proprietor also being a Quaker, and Quakers by the laws there may have judicial places, I do not see but this law which is made with the spirit of the Quakers, may be allowed them. As to the affirmation in lieu of oaths and the method of administering them, the law in England allowing affirmation by Quakers instead of oaths, doth not extend to the plantations, they not being named in the act, and therefore a law may properly be made in Pennsylvania to allow such affirmation. By the English act, affirmation is not to be allowed in criminal cases; but is allowed by this in Pennsylvania, for which there may be some reason, because the greatest part of the inhabitants are Quakers, and provision is made for punishing falsities on affirmations as would be on oaths, and persons that are willing to take oaths, may take them if there be any magistrate present who doth not scruple to administer an oath, which may be easily stipulated for with the proprietor that such shall always be provided. By this law a deposition in writing taken in any matter or cause of a person sick or going out of the province is allowed to be evidence which I think is too hard in criminal cases. I have no other objections against this act.

All of which is humbly submitted to your Lordships' great wisdom.

EDWARD NORTHEY.

Board of Trade, Proprieties, July 9, 1706, Vol. VIII, O. 78.

7.

Mr. Attorney-General's report upon "An act of Pennsylvania, directing the qualification of all magistrates and officers, as also the manner of giving evidence," together with the said act, and a letter from the Lord Bishop of London, of the fourth instant, relating thereunto were read; whereupon, their Lordships agreed to lay the same before Her Majesty for her disallowance unless Mr. Penn do give their Lordships assurance that the assembly of Pennsylvania shall, at their first meeting, after the

receipt of the orders that will be sent the lieutenant-governor, pass an additional act with the following provisions, viz.:

That no judges, justices of the peace, etc., shall sit as a court to try any civil or criminal causes whatsoever unless there be always one of the said judges or justices at least present who can and will administer an oath to such who by the law of England are required to take oaths in the like cases.

That all persons who refuse to take oaths shall be obliged to declare that they do it purely upon a conscientious scruple before they be admitted to take the affirmation allowed to Quakers in England.

And that the last clause in the said act allowing evidence in writing be repealed, or that it be restrained only to civil and not criminal cases.

Board of Trade Journal, July 10, 1706, f. 354.

8.

Ordered that a letter be writ to Mr. Penn to acquaint him that the board desire to speak with him upon the "Act passed at Pennsylvania directing the qualifications of all magistrates and officers, as also the manner of giving evidence."

Ibid, July 11, 1706, f. 355.

9.

Mr. Willcocks presented to their Lordships a memorial containing reasons against an act lately passed in Pennsylvania entitled "An act for directing the qualifications of all magistrates and officers, as also the manner of giving evidence," which their Lordships resolved to take into consideration so soon as the act or an authentic copy thereof should arrive.

Ibid, November 6, 1706, f. 394.

10.

Reasons humbly offered to the Right Honorable the Lords Commissioners for Trade and Plantations against confirming an act passed at an assembly of the province of Pennsylvania,

entitled "An act for directing the qualifications of all magistrates and officers, as also the manner of giving evidence."

1. "Tis presumed that the preamble is grounded upon a falsity in fact, for tho' the major part of the freeholders and inhabitants of the province were such who pretend scruple of conscience in taking oaths or administering of them (which is denied), yet it doth not follow that inevitably there will be a failure of justice without this act, there being a sufficient number of such who are well qualified to execute all trusts and offices that are requisite for the government of the said province and who do not scruple to take and administer oaths.

2. "Tis conceived that the first clause in this act as it must be intended to establish Quakerism in the said province so it will destroy the present settlement, both ecclesiastical and civil, any persons being here authorized to be qualified for and capable of acting in all offices and trusts whatever without taking the oaths of allegiance in the solemn form required by the first of William and Mary or oaths for the due execution of their offices, and although it is mentioned in the said clause that the affirmations and declarations in one other act of the first of William and Mary, entitled "An act for exempting their Majesties' subjects dissenting from the Church of England from the penalties of certain laws" shall be taken and subscribed as requisite to such qualification. It is humbly proposed that tho' there was indulgence so far given to scrupulous consciences as to exempt them from penalties they would otherwise have incurred and by permitting them to take and subscribe such affirmations and declarations as aforesaid instead of the oaths of allegiance required by the said other act upon tender of the said oaths as a testimony of their fidelity to the government, yet it was not thought fit by that act or any other to admit the taking such affirmations to be a sufficient qualification for the being part of the government by acting and executing any office of trust of the least importance whatever. And the parliament of England in the other act of indulgence to Quakers, by permitting their affirmation to be taken instead of an oath in civil cases, seems to have a regard in that act chiefly to the rights of other subjects which might frequently be prejudiced

if such affirmations of Quakers as is therein mentioned should not be taken as an oath. Yet in that very act (which was but temporary) it is expressly provided that such affirmation shall not qualify to be a witness in criminal causes or serve on a jury or make capable of executing any office or place of profit in the government; whereas this act is perpetual and this clause expressly includes them all, which may be of very ill consequence to the lives and properties of the subject and directly tending to the unhinging the present establishment both in church and state by letting persons into the government, who, under the notion of Quakers and persons scrupulous to take oaths, may defeat and evade that security intended by the said act requiring oaths of allegiance and may enjoy offices of the highest trust without being bound to execute them faithfully in the solemn manner that all others are obliged. Nor does there seem any occasion for this extraordinary act for all the preamble says as a mischief (if it were true) is only that there will be a failure of justice for want of persons qualified to administer an oath to which single supposed mischief it is endeavored to provide this unsuitable and unnecessary remedy.

3. The clause enacting the form of the affirmation seems not to be with solemnity or propriety sufficient for a matter of that importance, for that it is not an express declaration of the party that he says the truth, but declares in the presence of God the witness of the truth of what he says, which gives so much room for equivocating, the sense of it being taken one way that God is witness of the truth, if he says truth, but otherwise not, and therefore 'tis only an implied declaration of speaking truth and not express.

4. The clause empowering such as scruple to administer oaths to administer the affirmation instead of it, even to persons willing to take oaths, may be of ill consequence and tend to the subversion of justice, since many persons may esteem themselves bound more solemnly by an oath than by such affirmation.

5. The clause enacting that the tender of an oath of one magistrate in the presence of a bench of magistrates shall be

esteemed his act only and yet as valid as if done by the whole will extend the power of any one magistrate too much, since one man may take upon him to do that which is intrusted only to a number of men for divers reasons and by their silence and not concerning themselves in it may be as effectual as if with all their consents.

6. As to the clause to solve objections against such affirmations that the persons shall be as liable to punishment for perjury as if sworn upon oath, tho' that may deter where a man may have but a small interest as to serve a friend in private civil cases, yet where offices of profit may be attained and where the detection of willful perjury cannot be easy but in those cases must be very difficult, men may be induced to take this affirmation especially since the tenor of breaking a solemn oath may be thought to be evaded, which oath in these cases would be wanting.

7. The last clause relates to the deposition or affirmation of a witness being taken before a judge or justice of peace after summons of the adverse party, and says it shall be as valid as if they had sworn in the presence of a court. Where a witness hath occasion to go out of the province or is sick, this may be very inconvenient not only to the properties but to the lives of the subjects, for that a witness designing to be absent may pretend occasion to go out of the way or be sick, whereas in England in those cases oath is required of such necessity even before a trial shall be put off, but in no such case the deposition to be read if the party alive unless upon convenient notice to the adverse party and upon motion in public court and upon hearing of council on both sides, and affidavit of the necessity of such absence and this only in civil cases. But this is never allowed to be done by any single judge of his own private authority without such application as aforesaid, and this with great reason because of the known benefit of cross-examining a witness who very often by an unexpected question reveals the truth which might otherwise by secret examination have been concealed, and sometimes by the manner of delivering his testimony a jury have not believed a witness; and for the summons

of the party there is no time set, so that may be so short as to be impossible to be there.

All which reasons are humbly offered to your Lordships against having the said law confirmed, by

My Lords,

Your Lordships'

Most obedient humble servant,

GEORGE WILLCOCKS.

Board of Trade, Proprieties, November 6, 1706, Vol. XXIX, f. 420.

11.

Memorial from Mr. Willcocks, appointed agent by some gentlemen of Pennsylvania to oppose the confirmation of some acts now coming from that province.

The humble representation of George Willcocks to the Right Honorable the Lords Commissioners for Trade and Plantations, concerning some laws which are transmitting from Pennsylvania in order to be confirmed by the Queen in council:

This humbly acquaints your Lordships that the said George Willcocks being constituted agent for several merchants, traders and others in the colony of Pennsylvania hath lately received an authority from several persons of considerable note in that country to oppose the confirmation of some laws transmitting from thence (which are pretended to have passed the assembly there, and to be approved by a governor or his deputy lawfully authorized for that purpose), as by the directions hereunto annexed does appear. But before he makes any application to Her Majesty in council, by virtue of the said authority he thinks it his duty to your Lordships thus humbly to inform you thereof, and further to acquaint you that one reason of such intended opposition is because the said laws are not approved by a governor of that country lawfully authorized for that purpose.

And further craves leave to observe to your Lordships that the said government is, as he humbly conceives and doubts not to make it appear to your Lordships, actually conveyed and transferred by William Penn, Esquire, and not in any legal manner granted or delegated to John Evans, Esquire, who now acts as lieutenant-governor under the said Penn, and who pretends to

an authority to approve the laws in relation to an act directing the qualifications of all magistrates and officers, etc., as also an act for laying a duty of two pence halfpenny per pound and ten shillings per head, as also a duty of excise upon liquors, etc., for support of their government and administration thereof.

And for that the said laws are thought prejudicial to that country, and not completed according to the constitution of the same, 'tis humbly hoped that the said opposition will find a favorable interpretation and encouragement from your Lordships when this matter shall come before you.

I am

My Lords, your Lordships'
Most obedient humble servant,
GEORGE WILLCOCKS.

Ibid, November 26, 1706, f. 426.

N. B.—The directions mentioned in the foregoing memorial are inclosed in the original memorial.

12.

Mr. Willcocks attending presented to their Lordships a letter from Colonel Quary, as also a memorial from himself against some acts lately passed in Pennsylvania which were read.

Board of Trade Journal, November 27, 1706, Vol. XVIII, f. 425.

13.

Whitehall, September 10, 1706.

At a meeting of Her Majesty's Commissioners for Trade and Plantations.

Present:

Mr. Cecil

Mr. Blathwayt

Sir Ph. Meadows

Mr. Pollexfen

Mr. Prior.

Mr. Willcocks presented to their Lordships an affidavit of Benjamin VanderWerf, late of Pennsylvania, relating to the passing of an act there for "directing the qualifications of all magistrates," etc., which was read, and their Lordships agreed to take that matter into consideration at the first opportunity.

Ibid, December 10, 1706, Vol. XIX, f. 9.

14.

Whitehall, January 3, 1706-7.

At a meeting of Her Majesty's Commissioners for Trade and Plantations.**Present:**

Mr. Cecill

Mr. Blathwayt

Sir Ph. Meadows

Mr. Pollexfen

Mr. Prior.

Mr. Willcocks attending and desiring their Lordships' report upon an act of Pennsylvania for the qualification of magistrates, ordered that Mr. Penn have notice to attend the board upon that matter, and that Mr. Willcocks attend at the same time.

Ibid, January 3, 1706-7, f. 26.

15.

Mr. George Willcocks presented to the board a memorial against an act passed in Pennsylvania, entitled "An act for directing the qualifications of all magistrates and officers, as also the manner of giving evidence," praying their Lordships to take the same into their consideration, which was read. Whereupon he was acquainted that there was no exemplification of the said act under the seal of that province in this office, and he being withdrawn, their Lordships ordered that Mr. Penn have notice to attend the board on Wednesday morning next. Then their Lordships read the several papers in this office relating to the said act, which papers are marked Pennsylvania Bundle O, No. 66, 67, 68, 77, 78, 81, 82 and 84.

Ibid, June 30, 1707, f. 286.

16.

Mr. Penn attending, and being asked if he had the act lately passed in Pennsylvania for qualification of magistrates, etc., he said that he believed he had it, and if so would send it their Lordships the beginning of the next week.

Ibid, July 3, 1707, f. 293.

17.

Mr. Penn having transmitted to this board an act under the seal of Pennsylvania, entitled "An act directing the qualifications of all magistrates and officers, as also the manner of giving evidence," their Lordships read the same. Whereupon ordered that Mr. Penn and Mr. Willcocks have notice to attend on Friday morning next.

Ibid, July 15, 1707, f. 307.

18.

Mr. Penn and Mr. Willcocks attending, Mr. Attorney-General's objections to the last clause of the Pennsylvania act "for the qualification of magistrates," etc., allowing depositions of persons sick or going out of the province taken in any matter or cause to be good evidence were read, with which objections Mr. Penn agreed; and Mr. Willcocks desiring that his reasons against the other parts of the said act, presented to the board the 6th November last, might also be read, Mr. Penn said that those reasons had not been communicated to him, and therefore prayed to have a copy thereof that he might give their Lordships his answer in writing, which was ordered accordingly.

Ibid, July 18, 1707, f. 310

19.

A letter from Mr. Penn inclosing his answer to Mr. Willcocks' reasons against an act passed in Pennsylvania relating to the "qualifications of magistrates," etc., was read, and ordered that a copy thereof be given to Mr. Willcocks for his reply.

Ibid, October 20, 1707, f. 335.

20.

Further ordered that a letter be writ to Mr. Willcocks to hasten his answer to Mr. Penn's reply to his reasons against the act about qualifications of magistrates, etc., in Pennsylvania, mentioned in the minutes of the 20th October last.

Ibid, December 1, 1707, f. 387.

21.

Mr. Willcocks presented to their Lordships a memorial in answer to Mr. Penn's reply to his reasons against the Pennsylvania act for qualifications of magistrates, etc., which their Lordships resolved to take into consideration at the first opportunity.

Ibid, December 10, 1707, f. 402.

22.

Their Lordships gave directions for preparing a representation upon the act of Pennsylvania relating to the qualifications of magistrates, etc.

Ibid, December 29, 1707, f. 420.

23.

A representation upon the Pennsylvania act relating to the qualifications of magistrates, together with a letter inclosing the same to the Earl of Sunderland, was signed.

Ibid, December 30, 1707, f. 422.

24.

Whitehall, December 30, 1707.

To the Right Honorable the Earl of Sunderland.

My Lord: Having prepared a report to be laid before Her Majesty in council upon an act passed in Pennsylvania relating to the qualifications of magistrates, etc., we transmit the same to your Lordships and are

My Lords,

Your Lordships' most humble servants,

STAMFORD,

HERBERT,

PHIL. MEADOWS,

JOHN PULTENEY,

ROBERT MONCKTON.

Board of Trade, Proprieties, Vol. XXX, f. 22.

Whitehall, December 30, 1707.

To the Queen's most excellent Majesty.

May it please your Majesty: Having had under consideration an act passed in Pennsylvania, entitled "An act directing the qualifications of all magistrates and officers, also the manner of giving evidence," and having thereupon had the opinion of your Majesty's late Attorney-General in point of law, as likewise heard and fully considered the reasons which have been offered both for and against the said law, we humbly take leave to represent to your Majesty that by a clause in the same a deposition in writing of a person sick or going out of that province is allowed to be good evidence, which sort of evidence being seldom allowed in your Majesty's courts of justice within this Kingdom even in civil matters nor even then without observing a much more solemn and safe method for allowing the same than what is laid down and directed by the said clause. But such paper evidence having with great reason always been disallowed in criminal proceedings, because of the known benefit of cross-examining a witness who very often by an unexpected question discovers the truth which might otherwise by secret examination have been concealed, and sometimes from the manner of delivering his testimony a jury has not believed a witness. For these reasons we are of opinion that no such paper evidence should be allowed in Pennsylvania and therefore do humbly offer that your Majesty be pleased to signify your disapprobation of the said act.

Which is most humbly submitted,

STAMFORD,
HERBERT,
PHIL. MEADOWS,
JOHN PULTENEY,
ROBT. MONCKTON.

Ibid., Vol. XXX, f. 22, 23.

25.

Whitehall, January 21, 1707-8.

At a meeting of Her Majesty's Commissioners for Trade and Plantations.

Present:

Earl of Stamford	Sir Ph. Meadows
Lord Herbert of Cherbury,	Mr. Pulteney
Mr. Monckton.	

Copy of an order of council of the 8th inst. upon a representation of the 30th December last, proposing the repeal of an act passed in Pennsylvania, entitled "An act directing the qualification of magistrates and officers, also the manner of giving evidence," approving the said representation, was read.

Board of Trade Journal, Vol. XX, f. 21.

APPENDIX II.

SECTION III.

1.

At the Court at Windsor, October 24, 1709.

Present:

The Queen's most excellent Majesty,	
Lord Treasurer,	Lord Chamberlain,
Lord President,	Marquis of Dorchester,
Lord Steward,	Earl of Sunderland,
Duke of Somerset,	Mr. Secretary Boyle,
Duke of Bolton,	Mr. Chancellor of the Exchequer.

Whereas by letters patent, under the great seal of England, William Penn, Esquire, proprietary of the province of Pennsylvania, in America, is empowered, with the advice of the freemen of that province, or their deputies, in General Assembly, to enact laws for the good government of the said province, which laws are to be transmitted to Her Majesty, for her royal appro-

bation or disallowance of them. And whereas, in pursuance of the said power, the following acts, passed in the said province of Pennsylvania, in one thousand seven hundred and five, have been transmitted for her Majesty's approbation, entitled:

- An Act against riotous sports, plays and games.
- An Act limiting the presentments of the grand jury.
- An Act for the further securing the administration of the government of this province.
- An Act for the acknowledging and recording of deeds.
- An Act directing the qualifications of magistrates and officers, as also the manner of giving evidence.
- An Act for the better proportioning the rates of money in payments, made upon contracts according the former regulation.

Which said laws, having been perused and duly considered by the Lords Commissioners for Trade and Plantations, with their opinion that the said acts be repealed, Her Majesty taking the same into consideration, is graciously pleased, with the advice of her privy council, to declare her disallowance and disapprobation of the said acts, and, pursuant to Her Majesty's royal pleasure thereupon, the same are hereby repealed, annulled and made void and of none effect to all intents and purposes whatsoever.

JOHN POVEY.

Note.—See Penna. archives, Vol. I, pp. 155-57, for additional matter of importance concerning the above action.

2.

At the Court of St. James, April 28, 1709.

Present:

The Queen's most excellent Majesty in Council.

This day was presented to the board under the seal of the province of Pennsylvania, the several acts passed there in the year 1705, by John Evans, lieutenant-governor under William Penn, Esquire, proprietor of the said province. Her Majesty in council was thereupon pleased to order that the said acts (which are hereunto annexed) be transmitted to the Lords

**Commissioners for Trade and Plantations to examine the same,
and make report thereon to Her Majesty at this board.**

EDWARD SOUTHWELL.

Board of Trade, Proprieties, Vol. IX, f. 63.

Memorandum: The original order and acts are annexed together.

3.

Whitehall, May 5, 1709.

**At a meeting of Her Majesty's Commissioners for Trade and
Plantations.**

Present:

The Earl of Stamford	Mr. Pulteney
Sir Ph. Meadows	Mr. Monckton.

An order of council of the 28th of April last, referring to the board several acts passed in Pennsylvania in 1705, was read, and their Lordships taking the said laws into consideration read nineteen of them.

Board of Trade Journal, May 5, 1709, Vol. XXI, f. 82.

4.

Their Lordships again took into consideration the laws passed in Pennsylvania in 1705, mentioned in yesterday's minutes, and read five of the said laws.

Ibid, May 6, 1709, f. 84.

5.

Their Lordships proceeded into [sic] the consideration of the laws of Pennsylvania, mentioned in the minutes of the 6th instant, and read five of the said laws, and agreed to ask Mr. Penn why in the last clause of the law, entitled "An act for the better improving a good correspondence with the Indians," fol. 27, the Indian traders are forbid to carry or dispose of any skins and furs out of Pennsylvania.

Ibid, May 23, 1709, f. 106.

6.

Their Lordships again took into consideration the acts of Pennsylvania passed in 1705, mentioned in yesterday's minutes,

and read nine of the said acts, and gave directions for sending the act entitled "An act for taking lands in execution for payment of debts," fol. 34, to Mr. Solicitor-General for his opinion thereupon in point of law.

Ibid, May 24, 1709, f. 110.

Note.—There is no evidence in the P. R. O. to show that this act was ever submitted to the S. G., and no opinion of his is on file there. W. N. SAINSBURY.

7.

Then their Lordships took into consideration the remainder of the acts passed in Pennsylvania, 1705, mentioned in the minutes of the 24th of May last, and went through the same, and gave directions that five of the said acts be sent to Mr. Attorney-General for his opinion thereupon in point of law.

Ibid, August 9, 1709, f. 184.

8.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

May it please your Lordships: In obedience to your Lordships' commands, signified by Mr. Popple in his letter of the 10th of this instant, August, I have considered the five following acts passed in Pennsylvania, viz.:

1. An Act against riotous sports, plays and games.
2. An Act limiting the presentments of the grand jury.
3. An Act for the better confirmation of the owners of lands and inhabitants of this Province in their just rights and possessions.
4. An Act for the acknowledging and recording of deeds.
5. An Act for taking lands in execution for payment of debts.

And do humbly certify to your Lordships that I do not find anything in any of the said acts which I can apprehend will be prejudicial to Her Majesty or any of her realms. And since the lieutenant-governor and general assembly in Pennsylvania have judged them useful and profitable to be enacted in that

province, I have no objection to make against Her Majesty's allowance of them.

All which notwithstanding is humbly submitted to your Lordships.

JAMES MOUNTAGUE.

Board of Trade Proprieties, August 30, 1709, Vol. IX; f. 73.

9.

Mr. Attorney-General's report upon five of the laws passed in Pennsylvania in 1705, transmitted to him in the secretary's letter of the 10th of the last month, was read. Whereupon ordered that Mr. Penn have notice to attend the board on Tuesday morning next.

Board of Trade Journal, September 2, 1709. Vol. XXI, f. 210.

10.

The draft of a representation upon the laws passed in Pennsylvania in 1705 by John Evans, Esquire, deputy-governor of that province was agreed and ordered to be transcribed.

Ibid, September 6, 1709, f. 214.

11.

A representation upon the laws of Pennsylvania passed in 1705, as agreed at the last meeting, was signed.

Ibid, September 8, 1709, f. 215.

12.

Representation upon the laws of Pennsylvania passed in 1705.

September 8, 1709.

To the Queen's most excellent Majesty.

May it please your Majesty: In obedience to your Majesty's order in council of the 28th of April last, referring to our examination a collection of laws passed in Pennsylvania in 1705, by John Evans, Esquire, lieutenant-governor of that province, we have considered the same, and having had the opinion of your Majesty's Attorney-General upon several of them in point of law, we humbly take leave to represent to your Majesty that there are some of the said acts which are unfit to be continued in force, the titles whereof are as follows, viz.,

An Act against riotous sports, plays and games.

Upon this we humbly take leave to observe that your Majesty was pleased, by your order in council of the 7th of February, 1705-6, for the reasons we then laid before your Majesty, to repeal several laws of Pennsylvania, amongst which was one with the same title and contents with this before mentioned, which is liable to the same objection as the former, viz.: That it restrains your Majesty's subjects from innocent sports and diversions, and therefore we humbly offer that your Majesty be pleased to repeal the same. However, if the assembly of Pennsylvania shall pass an act for preventing of riotous sports and for restraining such as are contrary to the laws of this Kingdom, we shall have no objection thereunto, so it contain nothing else.

An Act limiting the presentments of the grand jury.

Which is liable to the same objection as one repealed at the same time as the foregoing, for by this law all indictments for trespass are taken off where there is remedy for the party injured before the justices, which is unreasonable, for that in many cases there may be presentments for the Crown as well as the suit of the party for his damages. For which reason we humbly offer that the said act be repealed.

An Act for the further securing the administration of the government of this province.

Which enacts upon the death or absence of the lieutenant-governor and in the absence of the governor-in-chief, the president, with five members of the council, may take upon them the government of that province with as full power and authority as any lieutenant-governor, by which means your Majesty's approbation of lieutenant-governor may be eluded at least so long as the proprietor shall think fit to continue the government in the hands of the president and council, and therefore we are humbly of opinion that this act likewise be repealed.

An Act for the acknowledging and recording of deeds.

By a clause in this act it is provided that no woman shall recover her dower or thirds of any lands or tenements which have been sold, aliened or conveyed by her husband during her

coverture, altho' she be no party to the deed nor anyways consenting to the sale or assurance of such lands or tenements, which we think unreasonable and repugnant to the laws of this Kingdom, and therefore humbly offer the same be repealed.

An Act directing the qualifications of magistrates and officers, as also the manner of giving evidence.

The objections to this law are such that it is not fit for your Majesty's royal approbation, for it allows a deposition in writing of a person sick or going out of that province to be good evidence, which sort of evidence being seldom allowed in your Majesty's courts of justice within this Kingdom even in civil matters nor even then without observing a much more solemn and safe method for allowing the same than what is laid down, and directed by this act; but such proper¹ evidence having with great reason always been disallowed in criminal proceedings, because of the known benefit of cross-examining a witness. Besides as this act is drawn any person that is willing to take an oath in a court of judicature is not allowed to do it if there be only Quakers upon the bench, and if there be others not Quakers on the bench, then the law declares the administering of an oath to be the act of the person so administering and not of the court. For which reasons we humbly offer that your Majesty be pleased to repeal the said law.

An Act for the better proportioning the rates of money in payment made upon contracts according to the former regulation.

An act of parliament having been passed here in the 6th year of your Majesty's reign, entitled "An act for ascertaining the rates of foreign coins in her Majesty's plantations in America," we humbly offer that the foregoing Pennsylvania act be repealed.

As to the other of the Pennsylvania laws referred to us the titles whereof are hereunto annexed, we have no objection against the same, so that in case your Majesty do not see cause within six months from them having been presented to your Majesty in council (which was on the 28th of April, last) to

¹ In the abstract printed in the Pennsylvania Archives, Vol. I, p. 156, this word appears "paper," which is evidently the correct reading.

repeal any of them they will remain in full force pursuant to the charter of propriety granted to Mr. Penn.

Upon this occasion we humbly take leave to represent to your Majesty that by the said charter Mr. Penn is empowered with the advice of the freemen of that province or their delegates in general assembly to enact laws for the good of the said province under a proviso that such laws be not repugnant or contrary to, but so far as conveniently may be agreeable to the laws of this Kingdom, as also that a transcript of such laws be within five years after the making thereof delivered to your Majesty's privy council; and that if any of the said laws within the space of six months after they shall be so delivered as aforesaid be declared by your Majesty to be void, the said laws shall thenceforth become null and void accordingly, otherwise to remain in full force. This we think to be unreasonable, that Mr. Penn should have five years' time to lay his laws before your Majesty and your Majesty but six months to consider thereof, for it may so happen, as in the present case, that so great a number of laws may at one time be transmitted as that it will be difficult if not impossible, considering the other business that may intervene, to examine the same as they ought to be.

We further take leave to observe that in none of the acts of this province is there any clause for renouncing the Pretender or declaring their allegiance to your Majesty, and therefore we humbly offer that your Majesty be pleased to signify your pleasure to Mr. Penn that he endeavor to get a law passed for that purpose.

All which is most humbly submitted,

DARTMOUTH,
J. SMITH,
PH. MEADOWS,
J. PULTENEY.

Laws of Pennsylvania against which the Lords Commissioners for Trade and Plantations have no objections:

The Law concerning liberty of conscience.

An Act against murder and manslaughter.

An Act against burglary.

- An Act against robbing and stealing.
An Act to restrain people from labor on the first day of the week.
An Act against rape or ravishment.
An Act against incest.
An Act against adultery and fornication.
An Act against bigamy.
An Act against sodomy and buggery.
An Act against burning houses.
An Act against drunkenness and drinking of healths.
An Act against riots and rioters.
An Act for determining of debts under 40 shillings.
An Act for the better confirmation of the owners of lands and inhabitants of this province in their just rights and possessions.
An Act concerning the probates of written or nuncupative wills and for confirming devises of lands.
An Act directing the order of payment of debts of persons deceased.
An Act for the better settling of intestates' estates.
An Act to ascertain the number of members of assembly and to regulate the elections.
An Act for selling beer and ale by wine measure.
An Act for the more easy and effectual collecting of the proprietor's quit-rents.
An Act about the departers out of this province.
An Act for the better improving a good correspondence with the Indians. [Expired.]
An Act about attachments.
An Act for the trial of negroes.
An Act to prevent the importation of Indian slaves.
An Act for the killing of wolves.
The Law about seven years' quiet possession.
An Act against mixing and adulterating strong liquors.
An Act for mariners not to be trusted.
An Act for county seals and against counterfeiting hands and seals.
An Act for defalcation.
An Act for bailing of prisoners and about imprisonment.

An Act for taking lands in execution for payment of debts.

An Act about arrest and making debtors pay by servitude.

An Act for the relief of the poor.

An Act for confirming the sales of land by attorneys or agents and for ascertaining the proof of instruments or writings made out of this province.

An additional act for the better preserving the highways.

A supplementary act to that about raising county levies.

An Act to prevent the running of swine at large.

An Act for collecting the arrears of 2,000 pounds granted to the proprietary.

An Act for regulating elections of sheriffs and coroners.

An Act for selling the old court house and building a new court house and prison in the county of Bucks.

An Act for raising a supply of 2½d. per pound and 10s. per head, also for granting an impost and laying an excise on sundry liquors and negroes imported into this province for the support of government and defraying the necessary public charges in the administration thereof. [Expired.]

Board of Trade Proprieties, Vol. XXX, f. 146.

13.

A letter from Mr. Penn dated at Bristol, the 12th of September, desiring that the representation on the Pennsylvania laws may be withdrawn from the council office till he arrives in town, was read. Whereupon ordered that the secretary do acquaint him that by reason the time limited by his charter for Her Majesty's signifying her pleasure on the said laws, will expire the 28th of the next month, their Lordships do not think it proper to do anything further therein.

Board of Trade Journal, September 15, 1709. Vol. XXI, f. 217.

14.

Their Lordships understanding that the representation of the 8th of September last, upon the body of laws passed in Pennsylvania in 1705, had not yet been laid before Her Majesty, a letter to the Lord President of the council, signifying the same

to his Lordship and acquainting him with the necessity of Her Majesty's pleasure being declared thereupon, was signed.

Ibid, October 18, 1709, f. 232.

15.

A third order of council of the 24th instant upon a representation of the 8th of September last, on the body of laws passed in Pennsylvania in 1705 by John Evans, Esquire, then deputy-governor of that province, proposing a repeal of six of the said laws, was read. Whereupon ordered that a copy of the said order be taken and the original delivered to Mr. Penn.

Ibid, October 27, 1709, f. 244.

APPENDIX III.

Papers relating to the acts passed by the eighth, ninth, tenth and eleventh assemblies under the Charter of 1700, from October 14, 1708, to June 7, 1712.

SECTION I.

1. Order in Council, December 19, 1711.
2. Order in Council, July 30, 1711.
3. Address from St. Mary's, Burlington, July 30, 1711.
4. Board of Trade Journal, September 12, 1711.
5. Board of Trade Journal, October 25, 1711.
6. Board of Trade Journal, November 30, 1711.
7. Board of Trade Journal, December 4, 1711.
8. Representation of the Board of Trade, December 4, 1711.

SECTION II.

1. Order in Council, February 20, 1713-14. Confirming.
2. Order in Council, February 20, 1713-14. Repealing.
3. Letter to Solicitor-General, August 3, 1713.
4. Board of Trade Journal, December 2, 1713.
5. Opinion of Robert Raymond, December 22, 1713.
6. Board of Trade Journal, January 13, 1713-14.

7. Board of Trade Journal, January 14, 1713-14.
8. Board of Trade Journal, January 15, 1713-14.
9. Representation of Board of Trade, January 15, 1713-14.
10. Board of Trade Journal, March 17, 1713-14.
11. Board of Trade Journal, March 19, 1713-14.

SECTION III.

1. Ordinance for establishing courts, July 21, 1714.
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SECTION I.

1.

At the court at St. James, the 19th of December, 1711.

Present:

The Queen's most Excellent Majesty in Council.

The Lords Commissioners for Trade and Plantations, having this day represented to the board that in obedience to Her Majesty's order in council they have considered of the address of the minister, church wardens, and vestry of the parish church of St. Marie's in Bridlington [Burlington] in Her Majesty's province of New Jersey, complaining of an act lately passed in Pennsylvania constituting a new form of protestation repugnant to the affirmation enjoined by act of parliament entitled "An act directing an affirmation to such who for conscience' sake cannot take an oath," which the Commissioners find materially to differ from the affirmation enjoined the Quakers by act of parliament here, and therefore humbly offer it as their opinion that the said law be disallowed, Her Majesty, taking the same into consideration is pleased with the advice of her privy council, pursuant to the powers reserved to Her Majesty by the letters patent under the great seal of England to William Penn, Esquire, proprietor of the said province of Pennsylvania, to declare her disallowance and disapprobation of the said law, and according to Her Majesty's pleasure thereupon, the same is hereby repealed and declared void and of none effect.

EDWARD SOUTHWELL.

2.

At the Court at Windsor, the 30th of July, 1711.

Present:

The Queen's most Excellent Majesty in Council.

Upon reading this day at the board the humble address of the minister, church wardens and vestry of the church of St. Mary in Bridlington [Burlington] in Her Majesty's province of New Jersey, upon Her Majesty's having rejected a bill lately passed in the assembly of that province, whereby the Quakers were enabled to give evidence in criminal causes, serve on jurys and enjoy places of profit and trust in the government there, contrary to the laws of Great Britain, and representing that an act is passed in the adjoining province of Pennsylvania constituting a new form of protestation repugnant to the affirmation enjoined by act of parliament, Her Majesty in council is pleased to order that the said address (a copy whereof is hereunto annexed) be and it is hereby referred to the right honorable the Lords Commissioners of Trade and Plantations, to consider the same and report their opinion thereupon to Her Majesty at this board.

JOHN POVEY.

Ibid, Vol. IX, f. 17.

3.

To Her Most Excellent Majesty, Anne, by the grace of God of Great Britain, France and Ireland, Queen, Defender of the Faith, &c.

The humble address of your Majesty's most dutiful and loyal subjects, the minister, church wardens and vestry of the church of St. Mary in Bridlington [Burlington] in your Majesty's province of New Jersey.

Most dread Sovereign:

The transcendent affection to and care of the Protestant religion and Church of England that your Majesty hath at all times and on all occasions given the greatest assurance of, and more especially in your late speech to your Parliament in Great Britain, emboldens us, your Majesty's dutiful and loyal

subjects, to lay in the most humble manner the following address at your Majesty's feet.

We have by too fatal experience found that the admission of Quakers into offices of the highest trust in the government, such as the council and assembly, hath very much retarded your Majesty's service, obstructed the peace of the province, and above all extremely damped the increase and progress of the doctrine and discipline of the best of churches, the Church of England.

But what can hinder the entire ruin of our church and State if these enemies of both who never want the will when they have the opportunity to hurt us, be empowered by a law to destroy our religion, lives, liberties, reputations and estates at their pleasure, the danger of which has of late been but too apparent from the cunning address and interest of the Quakers of this present assembly, who procured a bill to be passed in the house of representatives (ten of that persuasion being then sitting members there) to enable them to give evidence in criminal causes, serve in any juries and enjoy places of profit and trust in the government, which being so contrary to the laws and statutes of your Majesty's Kingdom of Great Britain, was to the great satisfaction of your Majesty's good and loyal subjects, the members of the Church of England, rejected by your Majesty's council here.

And though we should not presume to intermeddle with the affairs of another province, especially in their making of laws, if they had not too great an influence on the temper, humor and inclinations of a great number of the inhabitants of this your Majesty's colony, yet our common safety requiring our utmost opposition to whatsoever may endanger those things we justly think most dear and valuable to ourselves and our posterity, we further crave leave to acquaint your Majesty that the Quakers have lately passed an act in our neighboring colony of Pennsylvania, constituting a new form of protestation repugnant to the affirmation enjoined them by act of parliament in Great Britain, in which the name of God is entirely omitted, thereby slighting the indulgence the laws have allowed them and setting up for themselves, doing whatsoever seems good in their own eyes.

How far such dangerous and pernicious practices may tend to the destruction of the very being of our constitution of government and what security we have for the enjoyment of our undoubted rights and privileges either ecclesiastical or civil, we most humbly submit to your Majesty's most wise and just determination, not in the least doubting but the rays of your royal benignity will equally shine on us in this distant wilderness with the rest of your Majesty's subjects to our great satisfaction and comfort.

May that glorious Being who hath placed your Majesty on the throne of your ancestors, and crowned your reign with an uninterrupted train of success, both by sea and land, shower down on your Majesty all imaginable blessings, and after a long and happy reign over us, crown you with never fading joys. All which may it please your Majesty is and shall be the prayers of your Majesty's

Most dutiful and loyal subjects,

HU. BUDDY,	JOHN TALBOT,
DAN. COXE,	ALEX. GRIFFITH,
THO. REVELL,	DANIEL LEEDS,
J. BASS,	GEORGE WILLIS,

JOHN LANNWELL.

A true copy,

JOHN POVEY.

July 30, 1711.

Board of Trade Proprieties, Vol. IX, f. 17.

4.

An order of council of the 30th of July last, referring to the board an address from the minister, church wardens and vestry of St. Mary's in Burlington in New Jersey, relating to an act lately passed in Pennsylvania constituting a new form of protestation for the Quakers not consonant to the affirmation enjoined by act of parliament here, was read, as was also the act itself (lately received from Mr. Penn), entitled "An Act directing an affirmation to such who for conscience' sake cannot take the oath," passed the 28th of February, 1710-11. Whereupon ordered that Mr. Penn be acquainted that their

Lordships desire to speak with him to-morrow at eleven of the clock in the morning.

Board of Trade Journal, September 12, 1711, Vol. XXII.

5.

Mr. Penn attending, in relation to an address from the minister, &c., of St. Mary's church in New Jersey, about an act passed in Pennsylvania constituting a new form of protestation repugnant to the affirmation enjoined by act of parliament, their Lordships appointed Tuesday morning next to consider that matter, and ordered that the Bishop of London be acquainted therewith, and that his Lordship be desired to be present at the same time.

Ibid, October 25, 1711, Vol. XXII.

6.

Mr. Penn attending, the order of council of the 30th of July, 1711, upon an address from the minister, church wardens and vestry of St. Mary's in New Jersey, about an act passed in Pennsylvania constituting a new form of protestation repugnant to the affirmation enjoined by act of parliament, as also the said act (both mentioned in the minutes of the 12th of September last) were again read, and after some discourse with Mr. Penn, thereupon (he being withdrawn), ordered that the draft of a representation be prepared proposing a repeal of said act.

Ibid, November 30, 1711, Vol. XXIII.

7.

A representation upon the act passed in Pennsylvania entitled "An act directing an affirmation to such who for conscience' sake cannot take an oath," proposing a repeal thereof, agreed the last meeting, was signed.

Ibid, December 4, 1711, Vol. XXIII.

8.

Representation upon an act passed in Pennsylvania directing an affirmation to such who for conscience' sake cannot take an oath, proposing a repeal thereof.

To the Queen's most Excellent Majesty.

May it please your Majesty:

In obedience to your Majesty's order in council we have considered the address of the minister, church wardens and vestry of the church of St. Mary's in Bridlington [Burlington] in your Majesty's province of New Jersey, complaining of an act lately passed in Pennsylvania constituting a new form of protestation repugnant to the affirmation enjoined by act of parliament here, and having lately received the said act from Mr. Penn, proprietor of that province, entitled "An act directing an affirmation to such who for conscience' sake cannot take an oath," we humbly lay the same before your Majesty and take leave to observe that the affirmation directed by the said act doth materially differ from the affirmation enjoined the Quakers by act of parliament here, and particularly in that the name of Almighty God is not mentioned in it. Besides a Quaker may by taking the affirmation, directed by the said act of assembly, be an evidence in any case whatsoever, and consequently in criminal matters, which is expressly provided against by the act which allows the affirmation in this kingdom. For which reasons, we humbly offer that your Majesty be pleased to signify your disallowance of the said act.

Which is most humbly transmitted.

WINCHELSEA,	CHARLES TURNER,
HEN., LONDON,	ARTH. MOORE,
PH. MEADOWS,	FRAN. GWYNNE,
ROBT. MONCKTON,	GEO. BAILLIE.

Whitehall, December 4, 1711.

Board of Trade Proprieties, Vol. XXX, f. 330.

SECTION II.

1.

At the Court at St. James, the 20th of February, 1713-14.

Present:

The Queen's most Excellent Majesty.

Lord Chancellor,	Earl of Orkney,
Lord Treasurer,	Earl of Islay,
Lord President,	Earl Ferrers,
Lord Privy Seal,	Earl of Portmore,
Duke of Beaufort,	Lord Viscount Bolingbroke,
Duke of Argyle,	Lord North and Gray,
Duke of Athol,	Lord Berkeley,
Lord Steward,	Mr. Comptroller,
Earl of Northampton,	Mr. Secretary Bromley,
Earl of Clarendon,	Lord Chief Justice Parker,
Earl of Anglesey,	Lord Chief Justice Trevor,
Earl of Rochester,	Mr. Chancellor of the Exchequer,
Earl of Abington,	Sir Charles Hedges.
Earl of Mar,	

Upon reading this day at the board, a representation from the Commissioners of Trade and Plantations, setting forth that having received from William Penn, Esquire, proprietary of Her Majesty's province of Pennsylvania, a collection of laws, under the seal of that province, passed there in 1708, 1709, 1710, 1711 and 1712, and, amongst others, the several hereunder written, which they having perused and considered, have no objection against them; so that in case Her Majesty doth not see cause, within six months [from there being now delivered to her privy council]¹ to repeal any of them, they will remain in full force, pursuant to the charter of propriety granted to the said William Penn, Esquire.

An Act for the better enabling of divers inhabitants of the province of Pennsylvania, to hold and enjoy lands, tenements, and plantations, in the same province. Passed the 29th of September, 1709.

¹ I Pa. Archives, fo. 162.

An Act that no public house or inn, within this province, be kept without license. Passed 1710.

An Act to prevent disputes which may hereafter arise about the dates of conveyances, and other instruments and writings.

An Act for the better improving a good correspondence with the Indians.

An Act empowering commissioners to compel the collecting of all arrearages of former taxes.

An Act for raising a supply of two pence per pound and eight shillings per head. Expired.

An Act for raising two thousand pounds for the Queen's use, by a tax of five pence halfpenny per pound, and twenty shillings per head. Passsed August 10, 1711.

Acts passed 1712.

An Act for better ascertaining the public debts, and collecting the arrears of county levies.

An Act for raising money on the inhabitants of the city of Philadelphia, for the public use and benefit thereof.

An Act concerning the register-general's office.

An Act for establishing the lower ferry on the river Schuylkill.

An Act for establishing and regulating of ferries over Delaware River, and Neshaminy Creek.

An Act for the further security of the administration of the government.

Her Majesty, taking the same into consideration, is pleased, with the advice of her Privy Council, pursuant to the powers reserved to her Majesty, by the letters patent under the great seal of England, to the said William Penn, to declare her approbation of the same; and according to her Majesty's royal pleasure thereupon expressed, the said laws are hereby confirmed, finally enacted and ratified; whereof the deputy-governor, council and assembly of the said province, are to take notice, and to cause them to be duly and effectually observed, and put in execution accordingly.

EDWARD SOUTHWELL.

2.

At the Court at St. James, the 20th of February, 1713-14.

Present:

The Queen's most Excellent Majesty, in Council.

Upon reading, this day at the board, a representation from the Lords Commissioners for Trade and Plantations, setting forth that having received from William Penn, Esquire proprietary of Her Majesty's province of Pennsylvania, a collection of laws, under the seal of that province, passed there in the years 1708, 1709, 1710, 1711, and 1712, and having considered the same and received the opinion of Her Majesty's solicitor-general thereupon in point of law, who has made objections against the confirming several of them hereunder named, as unfit for Her Majesty's royal approbation, wherein also the said Lords Commissioners do also concur with him, and humbly offer that Her Majesty will be pleased to signify her disallowance of the same, viz.:

An Act for ascertaining the rates of money for payment of debts, and preventing exactions in contracts and bargains, made before the first of May, 1709, and passed in Pennsylvania, October 14, 1708.

An Act for establishing courts of judicature, passed in February, 1710.

An Act for regulating and establishing fees.

An Act for acknowledging and recording of deeds.

An Act directing an affirmation to such who cannot for conscience' sake take an oath.

An Act of privileges to a freeman.

An Act against riotous sports, plays and games.

An Act for priority of payment of debts to the inhabitants of this province.

An Act for regulating party walls and buildings in Philadelphia.

An Act for laying a duty on negroes, wine, rum and other spirits, cider and vessels.

An Act confirming patents and grants, 1711.

An Act for better government of the city of Philadelphia.

An Act for empowering religious societies to buy, hold and enjoy lands, tenements and hereditaments.

A supplementary Act to a law about the manner of giving evidence.

An Act to prevent the importation of negroes, and Indians into this province.

A supplementary Act to an act, entitled, "An impost act, laying a duty on negroes, rum, wine, spirits, cider and vessels," and appropriating certain sums of money arising by the same, and other public stock of this province.

Her Majesty, taking the same into consideration, is pleased, with the advice of her privy council, pursuant to the powers reserved to Her Majesty, by the letters patent under the great seal of England, to the said William Penn, to declare her disallowance and disapprobation of the said several laws; and according to Her Majesty's pleasure thereupon, the same are hereby repealed, declared void, and of none effect. And it is further ordered by Her Majesty, that the deputy-governor, council and assembly of Pennsylvania, be and they are hereby strictly enjoined and required not to permit the said laws, or any part of them, to be from henceforward put in execution; but that they forthwith declare the same to be null and void, to all intents and purposes, as they will answer the contrary.

JOHN POVEY.

3.

Letter to Mr. Solicitor-General, with several acts of Pennsylvania for his opinion thereupon in point of law.

Sir: The Lords Commissioners of Trade and Plantations command me to send you the four inclosed bundles of Pennsylvania laws and to desire your opinion thereupon in point of law as soon as conveniently may be.

The reason why their Lordships desire a dispatch in your report is that by Mr. Penn's patent for the government and province of Pennsylvania he is allowed five years after the making of laws to transmit and deliver the same to Her Majesty's Privy Council. But Her Majesty by the said patent is allowed

but six months after the delivery of such laws as aforesaid to repeal any of them, and the inclosed laws having been received from Mr. Penn the 22nd of last month I am commanded to acquaint you therewith that the time for Her Majesty's repealing any of them may not lapse.

I am upon this occasion to take notice to you that among these laws there are several which I have marked in the margin of the list, with the same titles as others that have been formerly repealed, and therefore that you may be informed of the reasons of such repeal I send you inclosed also three representations of this board of the 17th January, 1705-6, the 8th of September, 1709, and the 4th of December, 1711, wherein you will find not only their Lordships' opinions upon the said repealed acts, but Mr. Attorney-General's also.

I must desire you will please to return me the said three representations when you have done with the laws.

I am, Sir,

Your most humble servant,

WILLIAM POPPLE.

Whitehall, August 3, 1713.

Board of Trade Proprieties, Vol. XXX, f. 389.

List of acts passed in Pennsylvania:

No. 9. An Act for ascertaining the rates of money for payment of debts and preventing exactions on contracts and bargains made before the 1st of May, 1709. Passed at an assembly begun the 14th of October, 1708.

An Act for the better enabling of divers inhabitants of the province of Pennsylvania to hold and enjoy lands tenements and plantations in the same province. Passed 29th of September 1709.

No. 10. The following fourteen acts were passed the 28th day of February, 1710:

1. An Act for establishing courts of judicature in this province.

2. An Act for regulating and establishing fees.

3. An Act for the acknowledging and recording of deeds.

4. An Act directing an affirmation to such who for conscience' sake cannot take an oath.

5. An Act that no public house or inn within this province be kept without license.
 6. An act of privileges to a freeman.
 7. An Act against riotous sports, plays and games.
 8. An Act to prevent disputes which may hereafter arise about the dates of conveyances and other instruments and writings.
 9. An Act for priority of payment of debts to the inhabitants of this province.
 10. An Act for the better improving a good correspondence with the Indians.
 11. An Act for regulating party walls and buildings in Philadelphia.
 12. An Act empowering commissioners to compel the collecting of all arrearages of former taxes.
 13. An Act for raising a supply of 2 pence per pound and 8 shillings per head.
 14. An Act for laying a duty on negroes, wine, rum and other spirits, cider and vessels.
- No. 11. An Act for raising two thousand pounds for the Queen's use by a tax of 5½ pence per pound and 20 shillings per head, passed the 10th of August, 1711.
- No. 12. The following twelve acts were passed the 7th of June, 1712:
1. An Act confirming patents and grants.
 2. An Act for the better ascertaining the public debts and collecting the arrears of county levies.
 3. An Act for raising money on the inhabitants of the city of Philadelphia for the public use and benefit thereof.
 4. An Act for the better government of the city of Philadelphia.
 5. An Act concerning the register-general's office.
 6. An Act for empowering religious societies to buy, hold and enjoy lands, tenements and hereditaments.
 7. A supplementary Act to a law about the manner of giving evidence.
 8. An Act for establishing the lower ferry on the river Schuylkill.

9. An Act for establishing and regulating of ferries over Delaware River and Neshaminy Creek.

10. An Act to prevent the importation of negroes and Indians into this province.

11. An act for the further securing the administration of the government.

12. A supplementary Act to an act entitled "An impost act, laying a duty on negroes, rum, wine, spirits, cider and vessels," and appropriating certain sums of money arising by the same and other public stock of this province.

4.

At a meeting of Her Majesty's Commissioners for Trade and Plantations.

Present:

Lord Guilford,

Mr. Sharpe,

Mr. Monckton,

Mr. Pytts,

Lieutenant John Hinde Cotton,

Mr. Vernon.

Ordered that the secretary write to Mr. Borrett, solicitor to the treasury, to remind him of what was written to Mr. Solicitor-General and himself the 3d of August last, upon several acts of Pennsylvania, and desiring Mr. Solicitor-General's opinion thereupon without delay.

Whitehall, December 2, 1713.

Board of Trade Journal, Vol. XXIV, f. 55.

5.

Solicitor-General on Laws, 1713.

My Lords: In humble obedience to your Lordships' commands signified to me by Mr. Popple by his letter dated the 3rd of August last, I have considered of the sealed Pennsylvania laws then transmitted to me and herewith sent back to your Lordships.

And as to the act entitled "An act for ascertaining the rates of money for payment of debts and preventing exactions in contracts and bargains made before the first of May 1709, and passed in Pennsylvania October 14, 1708," I can't but take

notice of a clause therein, whereby 'tis enacted that the prices of all goods, wares and merchandises whatsoever shall, after the first of May, 1709, be computed at three-quarters of the sum and no more which the seller would have taken for them if no change had been made in the currency of their coins by her Majesty's proclamation of the 18th of June, 1704, and the British act of 6th of her present Majesty's, entitled "An act for the ascertaining the rates of foreign coin in her Majesty's plantations," which clause may not only be the foundation of many disputes, but may possibly render her Majesty's proclamation and the British acts which were intended to make the foreign coins go at the same rate in all Her Majesty's plantations, because the lowering the price of goods in consequence in respect to the other plantations, the coin thus will be raised to the old value, and therefore whether this is a sufficient reason for repealing this act, I appeal to your Lordships.

As to the act for establishing courts of judicature passed in February, 1710—

I conceive there are several things not proper to be established as law, and I can't see any occasion for erecting such a supreme court of judicature as therein is mentioned, since justice as to all the particulars mentioned in this act in courts which this act calls inferior courts, and those are still to continue, only this court to be erected is to draw from them what business they think proper by *certiorari*, writs of error, *habeas corpus*, &c., which will only multiply suits or make proceedings at law more dilatory and expensive.

The justices of peace have power given them to make persons find sureties for threatening any persons in body or estate and yet 'tis not required the charge should be on oath or affirmation which leaves a very arbitrary power in the justice. In that part of the act which enacts several laws of Great Britain to be observed there, 'tis enacted that the act of the 8th and 9th of W. 3d, for preventing frivolous and vexatious suits shall be put in execution in Pennsylvania, as far as circumstances admit. What is meant thereby I can't apprehend, but it seems very improper to say an act shall be observed as far as circumstances will admit. In relation to the proceedings in equity

there is a clause that they shall determine nothing determinable at common law nor try any fact arising on hearing the cause, but send it to an issue at law, which I apprehend must make proceedings in equity insufferably dilatory and multiply trials at law in the plain cases to no manner of purpose, for which reason I am humbly of opinion that this act ought to be repealed.

As for the act for the regulating and establishing fees—

I should have no objection against it did it not as well establish the fees of officers of the supreme court and sessions of the peace and court of equity, erected by the act for establishing courts of judicature, as fees of other officers, and therefore if your Lordships should be of opinion to advise Her Majesty to repeal that act 'twould look odd in this to have the fees of a great number of officers mentioned to be established, whereas there will be no such officers, if that act is repealed.

As to the act entitled an act for acknowledging and recording of deeds—

There is a clause therein whereby it is enacted that every deed or conveyance (other than leases for 21 years or under) heretofore made for any lands, tenements or hereditaments in this province not yet acknowledged or proved nor recorded, which shall within five years after the 25th of March, 1711, be acknowledged or proved and recorded as therein is mentioned, and all such deeds, &c., as had been at any time since the 12th of January, 1705, acknowledged or proved and recorded as that act directs, should take effect from the time of signing and sealing, and be good and available in law, by which 'tis implied that without the aid of this act such deeds are not good, and then this act will make them good by a retrospect which may prejudice innocent purchasers and creditors.

As to the act directing an affirmation to such who for conscience' sake cannot take an oath—

I find that the 4th of December, 1711, the then Lords Commissioners of Trade made a representation to Her Majesty to disallow an act of this nature, possibly this very act, because the affirmation therein differed materially from the affirmation enjoined the Quakers by act of parliament here, and particu-

larly in that name of Almighty God was not mentioned, and because a Quaker might give evidence in criminal matters on his affirmation, which objections hold against this act now transmitted, and taking such affirmation is likewise to qualify any magistrate.

As to the act of privileges to a freeman—

Such an act formerly passed was repealed because it interfered with an act of the 7th and 8th of W. 3d, entitled "An act for preventing frauds and regulating abuses in the plantation trade," and tho' this act has added a saving to admiralty courts, yet I am apprehensive it still may interfere with that act. Besides, I can't well see what occasion there is for this act, since by the laws already in being, the freemen are already entitled to all the priviledges therein.

As to the act against riotous sports, plays and games—

It restrains persons from several innocent sports and healthy diversions and the penalties in it are too great, and, therefore, I humbly conceive it ought to be repealed.

As to the act for priority of payment of debts to the inhabitants of this province—

I apprehend among traders in point of reason, all persons who give credit to and make contracts with others should stand on the same foot as to the point of recovery of their debts, and I conceive that such a preference of creditors as is given by this act may prejudice all the subjects of Great Britain who deal with the inhabitants of Pennsylvania and therefore, that this ought to be repealed.

As for the act for regulating party walls and buildings in Philadelphia—

It gives to the mayor and court of aldermen of Philadelphia a power to determine differences about party walls and buildings and to give damages, after which the party may sue for those damages in any court of record, and judgment there given shall be definite, on which I observe that the giving a new suit for the damages, after the mayor and alderman have awarded the same, seems a round-about way, and only multiplying suits. In the next place if a new suit is to be allowed, then there ought to be allowed an appeal to Her Majesty, which is disallowed by this act.

As to the act for laying a duty on negroes, wine, rum, and other spirits, cider and vessels—

Tho' this act will expire the 10th of March, 1713, yet I submit to your Lordships' considerations how far it may be proper for them at Pennsylvania to lay a duty on negroes, wine, rum and shipping, &c., and how far it may affect Her Majesty's subjects here, of which your Lordships are most proper judges.

An act confirming patents and grants—

This act confirms lands granted by old grants before Wm. Penn had the government, and new grants since, and not duly seated and improved by the grantees before 1682, and, yet, for anything appearing to me who have not the former acts, such old grants may []¹ and if so, then if Penn has granted these lands since, his last grant is hereby confirmed by this act and the old grant avoided.

The proviso wherein 'tis said the proprietor shall not be thereby obliged to make good to any purchaser a right to unlocated lands, who thro' inadvertency or by misinformation did nor may obtain a patent or confirmation of lands, which are discovered to be the prior right of another person further or any more than the same quantity of lands in the next advantageous place that such purchaser shall choose and discover to be vacant and free from all other claims, seems unreasonable, because if no such land can be found the purchaser is to have no satisfaction for his purchase.

As to the act for the better government of the city of Philadelphia—

This act inflicts 5 shillings penalty on persons riding a gallop, and 10 shillings for persons trotting with drays or their teams in the streets, and 5s. for suffering a dog or a bitch going at large; or firing a gun without license, or if a negro be found in any disorderly practices or other misbehaviors may be whipped twenty-one lashes for any one offense or committed to prison, which words "other misbehaviors," are very uncertain and give very arbitrary power where the punishment is great.

¹Omission in original and not supplied.

As to the act for empowering religious societies to buy, hold and enjoy lands, tenements and hereditaments—

There is a clause in it which confirms all sales, gifts, or grants to them already made, which having a retrospect may be very prejudicial to purchasers, creditors and other persons, and therefore I apprehend it fit to be repealed.

A supplementary act to a law about the manner of giving evidence—

This is liable to the same objection as the act directing an affirmation to such who for conscience' sake can't take an oath.

An act to prevent the importation of negroes and Indians into this province—

How far this act may interfere with the British interests as to their trading in negroes, your Lordships are most proper judges. But I observe this act gives a power to break open houses to search upon suspicion of negroes being there generally, which extends to night as well as day, which power is rarely admitted by our law in offenses of an inferior nature.

A supplementary Act to an act, entitled "An impost act laying a duty on negroes, rum, wine, spirits, cider, and vessels and appropriating certain sums of money arising by the same and other public stock of this province"—

This act depends on the impost act and ought to have the same determination concerning it.

As to the following acts I have no objection:

An Act for the better enabling of divers inhabitants of the province of Pennsylvania, to hold and enjoy lands, tenements and plantations in the same province, passed the 29th of September, 1709.

(1710). An Act that no public house or inn within this province be kept without license.

An Act to prevent disputes which may hereafter arise about the date of conveyances and other instruments and writings.

An Act for improving a good correspondence with the Indians expires the 28th of February, 1713.

An Act empowering commissioners to compel the collecting of all arrearages of former taxes. Expired.

An Act for raising a supply of 2 pence per pound and eight shillings per head. Expired.

(1711). For raising two thousand pounds for the Queen's use by a tax of 5½ pence and 20 pounds per head.

(1712). An Act for the better ascertaining the public debts and collecting the arrears of county levies.

An Act for raising money on the inhabitants of the city of Philadelphia for the public use and benefit thereof.

An Act concerning the register-general's office.

An Act for establishing the lower ferry on the river Schuylkill.

An Act for establishing and regulating ferries over Delaware River and Neshaminy Creek.

An Act for the further securing the administration of the government. An act of this nature was repealed before upon a representation of the then Lords Commissioners of Trade, dated the 8th of September, 1709, that the governor might elude the Queen's power of approving a lieutenant-governor as long as the proprietor should think fit to continue the government in the hands of the president and council, which mischief seems to be remedied, because the power vested in the president and council by virtue of the proviso in this act continues but six months, which is the time appointed for the governor to nominate a lieutenant-governor and from thence to the Queen's pleasure is known.

All which is most humbly submitted to your Lordships' great justice.

ROBERT RAYMOND.

December 22, 1713.

I Pa. Archives, p. 157 *et seq.*

6.

Mr. Solicitor-General's report upon four parcels of Pennsylvania laws transmitted to him the 3d of August 1713 passed in the years 1708, 1709, 1710, 1711 and 1712, was read, whereupon their Lordships gave directions for preparing the draft of a representation to Her Majesty thereupon.

Board of Trade Journal, January 13, 1713-14, f. 87.

7.

The draft of a representation upon several laws passed in Pennsylvania, mentioned in yesterday's minutes, was agreed and ordered to be transcribed.

Ibid, January 14, 1713-14, f. 88.

8.

A representation upon several laws passed in Pennsylvania (as mentioned in the last minutes) was signed.

Ibid, January 15, 1713-14, f. 89.

9.

Representation upon the laws passed in Pennsylvania in the years 1708, 1709, 1710, 1711 and 1712.

To the Queen's most Excellent Majesty.

May it please your Majesty:

Having received from William Penn, Esquire, proprietary of your Majesty's province of Pennsylvania, a collection of laws under the seal of that province, passed there in the years 1708, 1709, 1710, 1711 and 1712, and having considered the same and received the opinion of your Majesty's solicitor-general thereupon in point of law, we humbly represent that Mr. Solicitor-General has made objections against the confirming several of the said laws, the titles whereof together with his objections we take leave to annex hereunto and do concur with him that the said laws are unfit for your Majesty's royal approbation, and therefore we humbly offer that your Majesty be pleased to signify your disallowance of the same.

As to the other laws, the titles whereof are likewise hereunto annexed, we have no objections against them, so that in case your Majesty do not see cause within six months from their being now delivered to your Majesty's Privy Council to repeal any of them, they will remain in full force pursuant to the charter of propriety granted to the said William Penn.

Upon this occasion we humbly take leave to represent to your Majesty that by the said charter Mr. Penn is empowered with the advice of the freemen of Pennsylvania or their delegates in general assembly to enact laws for the good of the said province, provided such laws be not repugnant, but so far as conveniently may be, agreeable to the laws of this kingdom,

and that a transcript of such laws be within five years after the making thereof, delivered to your Majesty's privy council, and if any of the said laws within the space of six months after they shall be so delivered as aforesaid be declared by your Majesty to be void, the said laws shall thenceforth become null and void accordingly otherwise to remain in full force. This we think to be unreasonable that Mr. Penn should have five years time to lay his laws before your Majesty and your Majesty but six months to consider thereof, for it may so happen, as in the case of the collection of laws passed in Pennsylvania in 1705, that so great a number of laws may at one time be transmitted so that it will be difficult if not impossible considering the other business that may intervene to examine the same as they ought to be.

We take leave to represent another ill consequence of that clause in the said charter, which is that temporary laws prejudicial to the trade of your Majesty's other subjects may be enacted there, which will expire before Mr. Penn is obliged to lay the same before your Majesty, as particularly in the present case the act for laying a duty on negroes, wine, rum and other spirits, cider and vessels passed in February 1710, lays a duty of nine pence per ton on all ships coming thither except such as are owned by the inhabitants of that province, the three lower counties and West Jersey, or built in any of those places, which we think very unreasonable and a burden on the trade and navigation of this kingdom. This act will expire the 10th of March next and was not delivered to us till the 22d of July last, so that before the signification of your Majesty's disallowance thereof, they may re-enact the same again and by keeping it till near the time of expiration they may in effect evade your Majesty's right of repealing such laws as may be prejudicial to your Majesty's interest or the trade of your Majesty's subjects.

All which is most humbly submitted.

GUILFORD,

J. HINDE COTTON,

PHIL. MEADOWS,

SAMUEL PYTTS,

ARTHUR MOORE,

THO. VERNON.

Whitehall, January 15, 1713-14.

Board of Trade Proprieties, Vol. XXX, f. 408.

35*-I

10

An order of council of the 20th of February, upon a representation of the 15th of January, 1713-14, for confirming several laws passed in Pennsylvania in the years 1708, 1709, 1710, 1711 and 1712, was read, as also another order of council of the same date and upon the said representation for repealing several laws passed in that province in the years aforesaid, was read and directions were given for preparing the draft of a letter for inclosing the said orders of council to Captain Gookin, deputy-governor of Pennsylvania.

Board of Trade Journal, March 17, 1713-14, f. 159.

11.

A letter ordered at the last meeting to be prepared to Captain Gookin, deputy-governor of Pennsylvania, for transmitting two orders of council dated the 20th of February, 1713-14, for repealing some and confirming others of the laws passed in that province from the year 1708 to 1712, was signed.

Ibid, March 19, 1713-14, f. 160.

SECTION III.

1.

Governor Gookin's Ordinance.¹

By the Honorable Colonel Charles Gookin, by the Queen's royal approbation lieutenant-governor of the province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware.

Whereas the Queen's most excellent Majesty, by her order in council held at St. James, the twentieth day of February, in the year one thousand seven hundred and thirteen, was pleased to repeal and declare void and of none effect several laws formerly enacted in this government, and amongst others one certain law entitled "An act for establishing courts of judicature in this province," upon the publication of which order all the several courts that were founded upon the said act became void and discontinued, and thereupon an entire failure in the administration of justice in this province has ensued, for remedy whereof, and by virtue of the royal letters

¹ See I Pa. Archives, 165, for a draft of a Court Law.

patent of King Charles the second to the proprietor and governor and the powers to me derived by the same, I have, by the advice of the council, thought fit to appoint and establish, and do by these presents ordain and declare to be appointed and established for the public administration of justice in the said province the several courts of judicature hereinafter: (That is to say) that there shall be holden and kept a court of record, twice in every year in every county of this province, to wit, at Philadelphia, for the city and county of Philadelphia, the tenth day of April, and the twenty-fourth day of September; at Bristol, for the county of Bucks, the fourteenth day of April and the twenty-eighth day of September; and at Chester, for the county of Chester, on the eighteenth day of April and the second day of October; which said court shall be styled the supreme court of Pennsylvania, and there shall be three persons of known integrity and ability commissionated by the governor or his lieutenant, from time to time by several distinct patents or commissions, under the great seal of this province to be judges of the said court; one of whom shall be distinguished in his commission by the name of chief justice, which said judges or any one of them shall have full power to hold the said supreme courts, and therein to hear and determine, all pleas, plaints and causes, which shall be removed or brought there from the general quarter-sessions of the peace, or court of common pleas, or from the sessions or courts of record held for the city of Philadelphia, or from any other court or courts of record within the said respective counties, by writs of *habeas corpus*, *certiorari*, writs of error, prohibitions, injunctions, *audita querela*, *mandamus* or any other remedial or mandatory writ or writs of what nature or kind soever. And to examine and correct all and all manner of errors, of the justices and magistrates of this province in their judgments, process and proceedings, as well in all pleas of the crown, as in all pleas, real, personal and mixed; and thereupon to reverse or affirm the said judgments as the law doth or shall direct. And also to examine, correct and punish the contempts, omissions, neglects, favors, corruptions and defaults of all justices of the peace, sheriffs, coroners, clerks, and other

officers, within the said respective counties, and generally shall minister common justice to all persons concerning the premises, according to law, as fully and amply to all intents and purposes whatsoever, as the justices of the court of Queen's Bench, common pleas and exchequer at Westminster may or can do. All which said writs and every of them shall be granted of course, and shall have issue out of the office of prothonotary of the said court, and shall be made in the name or style of the Queen, her heirs and successors, and bear test in the name of the chief justice for the time being, but if he be plaintiff or defendant then in the name of one of the other justices, and shall be sealed with the provincial seal, or the seal of the said province.

And I do further ordain, by the authority aforesaid, that there shall be a court of equity held by the judges of the respective supreme courts in every county of this province which said judges or any one of them, within the limits of their commissions, shall have full power and are hereby empowered and authorized to hear and decree all such matters of equity as by appeals from the respective inferior courts shall come before them, and all such matters of equity as by appeals from the respective inferior courts shall come before them, and thereupon to revoke, make void, alter and confirm, such decrees, sentences, acts or proceedings of the said inferior courts, relating thereto, and to make such decrees and take such orders therein, as shall be agreeable to equity and justice, with full power by legal and due process to force obedience to their decrees or judgments.

And I do further ordain by the authority aforesaid, that there shall be a court styled the general quarter-sessions of the peace and goal delivery, held and kept four times in every year in every county of this province: (That is to say) at Philadelphia, for the county of Philadelphia, the first Monday in March, June, September and December; at Bristol, for the county of Bucks, the third Thursday of every of the same months; and at Chester, for the county of Chester on the last Tuesday on the months of May, August, November and February.

And there shall be a competent number of justices in every of the said counties, nominated, appointed and authorized by the governor or his lieutenant for the time being, by commission under the broad seal of the said province, which said justices or any three of them, shall and may hold the said general quarter-sessions of the peace of our Lady the Queen, her heirs and successors, and all acts and statutes made and to be made for the conversation of the peace and for the quiet rule and government in the respective counties for which they shall be so commissionated, according as those acts and statutes do and shall direct, and to chastise and punish all persons offending against those acts and statutes; with full power and authority to and for the said justices to award process, bind to the peace and good behavior; and to hear, try and determine, all and all manner of matters, causes and things whatsoever, (treason, murders and all such other crimes as by the laws of this province shall be made felonies of death, excepted) as near as conveniently may be to the laws of Great Britain, and according to the laws and usages of this province; with full power to hold special and private sessions, when and as often as occasion shall require, as any justices of assize, justices of oyer and terminer, or goal delivery, or justices of the peace in Great Britain in and out of their sessions, may or can do.

And I do further ordain by the authority aforesaid, That the said justices of the said court of general quarter-sessions of the peace and goal delivery, in the respective counties, or for which they are or shall be commissionated as aforesaid, shall hold and keep a court of record in every county, which shall be styled the court of common pleas to be held four times in every year, at the place where the said quarter-sessions of the peace shall be respectively kept, as aforesaid: (That is to say) at Philadelphia, for the city and county of Philadelphia, on the Wednesday in the same week in which the said quarter-sessions of the peace is held; at Bristol, for the county of Bucks, the day following the said quarter-sessions of the peace is appointed to be held; and at Chester, for the county of Chester, the day following the said quarter-sessions of the peace appointed to be held: which said justices or any three of them

within the limits of their commissions, shall hold pleas of assize, *scire facias*, replevin []¹ and determine all, and all manner of pleas, actions, suits and causes, civil, personal, real and mixed, as near as conveniently may be to the rules of the common laws, and to the course of practice of the court of common pleas of Westminster, and according to the laws and constitutions of this province.

And that all writs and process upon the pleas, plaints and actions aforesaid shall, as heretofore, issue out of the office of the prothonotary of the said respective counties, under the respective county seals []¹ all returns shall be made.

And I do further ordain, by the authority aforesaid that that day six weeks in which the said court of common pleas are begun to be held for the city and county of Philadelphia, shall be a return day for all original and judicial writs and process, at which day and so from day to day the said justices may hear and determine issues in law and give judgments upon writs of inquiry []¹ of declarations, pleas and other pleadings, and also may do and perform any other matter, cause or thing whatsoever, as might or could be done in the said quarterly court of common pleas, trials of fact by juries only excepted.

And I do further ordain by the authority aforesaid that there shall be a court of equity held by the justices of the said respective county courts of common pleas, four times a year at the respective places, and as near the said times as the said courts of common pleas are held in every county of this province, and that the prothonotary of the common pleas shall be the register of the said court of equity in every county.

Which said justices or any three of them within the limits of their commissions, shall have full power, and are hereby empowered and authorized to hear and decree all such matters and causes of equity as shall come before them in the said courts, with power to make orders and award all manner of process, and do all other things necessary for bringing causes to hearing, and to force obedience to their decrees, as the high court of chancery in Great Britain may or can do.

¹ Mutilated in original.

And for the better executing of the powers and jurisdictions hereby enacted or intended, it may be lawful to and for the said justices of the said respective courts to make and publish all and every such reasonable rules and orders as may be fit and necessary to regulate the offices and ascertain the practice of the courts they belong to.

And I do further ordain that special commissions of oyer and terminer and goal delivery may be granted into any the respective counties of this province for the hearing, trying and determining of all high and capital offenses, where the life of any person shall or may be brought in question.

And I do further ordain, that if any person or persons being defendant or defendants in any suit or action, who shall, by reason of their speedy departure out of this province, require a more speedy determination in the premises than can be had in the said court of common pleas, upon application to the justices of the said court, they shall grant to such defendants special courts and proceed to hear and determine the premises according to the course and practice of the said courts of pleas.

And I do further ordain that the justices of the said respective courts and every of them, may adjourn the said courts *de die in diem* until the business of the said courts be complete and ended.

And that the justices of the court of general quarter-sessions of the peace and goal delivery may adjourn their courts to such other time as to them shall seem meet and convenient.

Given under my hand and great seal of the said province, at Philadelphia, the twentieth day of July, in the thirteenth year of the reign of our Sovereign Lady, Ann, by the grace of God of Great Britain, France and Ireland, Queen, Defender of the Faith, etc.

Annoq. Domi. 1714.

Recorded the 21st day of July, 1714, Patent Book A, No. 5, f. 53.
&c.



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